

CLARENCE FREDERICK CHAPMAN.

The VICE-PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendment of the Senate to the bill (H. R. 12499) for the relief of Clarence Frederick Chapman, United States Navy, and requesting a conference on the disagreeing votes of the two Houses thereon.

Mr. DICK. I move that the Senate insist on its amendment and agree to the conference asked, the conferees on the part of the Senate to be appointed by the Chair.

The motion was agreed to, and the Vice-President appointed Mr. DICK, Mr. MARTIN, and Mr. SMITH of Maryland.

The VICE-PRESIDENT. The Senator from Oklahoma moves that the Senate proceed to the consideration of executive business.

Mr. HALE. Pending that motion, I move that the Senate adjourn.

The motion was agreed to; and (at 5 o'clock and 5 minutes p. m.) the Senate adjourned until to-morrow, Saturday, January 16, 1909, at 1 o'clock and 30 minutes p. m.

## HOUSE OF REPRESENTATIVES.

FRIDAY, January 15, 1909.

The House met at 12 o'clock noon.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

## REPRESENTATIVE FROM CONNECTICUT.

Mr. GAINES of Tennessee. Mr. Speaker, a parliamentary inquiry. I notice that on the roll call on yesterday, pages 943, 944 of the RECORD, that "LILLEY"—Mr. GEORGE L. LILLEY, of the State of Connecticut—was called as a Member of this House; which shows, of course, his name is on the House roll. Now, I want to ask the Speaker if he is any longer a Member of this House, having been sworn in as, and being now, governor of the State of Connecticut? I think his name ought not to be on the roll.

The SPEAKER. From the headlines of the newspapers the Chair has noticed some question as to whether Mr. LILLEY is governor of the State of Connecticut, but you can not always believe what you see in the newspapers. The Chair has no official information in the premises.

Mr. GAINES of Tennessee. I desire to ask, Mr. Speaker, if Congressman or Governor LILLEY has sent notice to the Speaker that, being governor of Connecticut, he has abandoned his membership of this House?

The SPEAKER. The gentleman asks a question that the Chair does not care to go into. Of course, if the House has official information that Representative LILLEY is in the enjoyment of the office, namely, governor of the State of Connecticut, why that would be a matter for the House to decide whether or no that is an office incompatible with the position of Representative in the House, and that would be a matter for the House to decide, and the Chair does not care to give any opinion in the premises upon a hypothetical case. So far as the Chair knows, the Chair is not aware of the question ever having arisen.

Mr. GAINES of Tennessee. Mr. Speaker, it is a matter of considerable importance, and I would like to address myself to the question for a few moments, which is on the approval of the Journal, because his name appears in the Journal as a Member of this House. I say that he is not a Member of this House, and I have considerable information upon the fact. That is why I speak thus. It is a very unpleasant duty for me to perform. My relations with the gentleman are very pleasant. Now, if the Chair will hear me a few minutes I think I can show the Chair and this House why we should act in this matter, and act without much delay.

The SPEAKER. It seems to the Chair that the gentleman should have the unanimous consent of the House to address the House.

Mr. GAINES of Tennessee. I guess I can get that on this important matter; but this is a privileged question, questioning the constitutional right of Mr. LILLEY to be a Member of this House and my constitutional right to challenge it. It is a question of high privilege, and has been so decided by Speakers of this House.

The SPEAKER. The Journal is disposed of.

Mr. GAINES of Tennessee. I do not want it disposed of until I am heard, Mr. Speaker, on this constitutional question. Other Members of the House may want to be heard. I make the statement that GEORGE L. LILLEY, a former Member of this House, as I am informed by men from Connecticut who voted

for him, was elected last November governor of that State; and I have before me this morning the Hartford Courant of the 6th and 7th of this month, giving the proceedings of the legislature of Connecticut on the 6th instant, stating that he was then inaugurated, and also his inaugural address, and so on. One of these papers also contains the picture of the distinguished gentleman, which I recognize and so will the Speaker. Here are the papers, gentlemen. Now, then, it is well decided by the courts on the question of judicial notice—

Mr. PAYNE. Is this a question of the approval of the Journal?

Mr. GAINES of Tennessee. Yes.

The SPEAKER. If the gentleman has a question of privilege at all, it could be as well presented, the Chair will suggest to the gentleman from Tennessee, by his rising to a question of privilege, or alleged privilege, without reference to the approval of the Journal, if the Journal is approved.

Mr. GAINES of Tennessee. But, Mr. Speaker, the point is, the Journal states that he is a Member of this House, and I challenge that. He is not a Member of this House, and I do not want to vote to approve something that I know is not true—at least that I believe is not true.

The SPEAKER. The Journal makes no mention of the gentleman except that he did not answer.

Mr. GAINES of Tennessee. Now then, it is recorded—

The SPEAKER. The Chair is informed by the Clerk that the Journal makes no mention of the name of the gentleman from Connecticut [Mr. LILLEY].

Mr. GAINES of Tennessee. Does not the Journal record the vote taken yesterday—the vote I am alluding to? His name appears.

The SPEAKER. The gentleman reads from the RECORD. The RECORD is one thing and the Journal is another.

Mr. GAINES of Tennessee. I understand that, Mr. Speaker; but the Journal should record the vote, and the Journal, I dare say, will record the vote of Mr. LILLEY as a Member of this House and as "absent and not voting."

The SPEAKER. The Journal does not, the Chair is informed, record the name of the gentleman "not voting." It records only the yeas and nays and those answering "present."

Mr. GAINES of Tennessee. The yeas and nays and those present and not voting and those absent and not voting will be recorded.

The SPEAKER. No.

Mr. GAINES of Tennessee. If the Journal does not do that, all right. In approving the Journal, I rise to a privileged question.

The SPEAKER. But it is not customary to dispose of questions of privilege not involved in the order of the House pending the approval of the Journal.

Mr. GAINES of Tennessee. Well, then—

Mr. PAYNE. Is there objection to that? If there is any objection I will make that motion.

The SPEAKER. Is there objection to the approval of the Journal?

Mr. GAINES of Tennessee. If his name is recorded as being a Member of the House—

Mr. PAYNE. The gentleman has been informed he is not.

Mr. GAINES of Tennessee. Well, all right.

The SPEAKER. The Chair hears no objection, and the Journal stands approved.

Mr. GAINES of Tennessee. Mr. Speaker, I send a privileged resolution to the desk and ask for its immediate consideration.

The SPEAKER. The gentleman from Tennessee sends the following resolution to the desk, which the Clerk will read.

The Clerk read as follows:

Whereas GEORGE L. LILLEY, a citizen of the State of Connecticut, was duly elected and qualified a Member of the House of Representatives, Sixtieth Congress, from said State; and

Whereas said GEORGE L. LILLEY was thereafter, in the November election, 1908, elected and on January 6, 1909, duly qualified and entered upon the duties of governor of said State: Therefore be it

Resolved, That his name be stricken from the roll, and his seat in this House be, and is hereby, declared vacant.

Mr. GAINES of Tennessee. Now, Mr. Speaker, that is privileged.

Mr. PAYNE. I move, if it is in order at this time to make the motion, that the resolution be referred to the Committee on the Judiciary for report to the House.

The SPEAKER. The gentleman from New York moves that the resolution of the gentleman from Tennessee be referred to the Committee on the Judiciary.

Mr. GAINES of Tennessee. Mr. Speaker, just a moment.

Mr. KEIFER. Committee on Elections.

Mr. GAINES of Tennessee. Just a moment.

Mr. PAYNE. I suppose that is not debatable?

Mr. GAINES of Tennessee. I believe I have the floor to offer a privileged resolution, and it is privileged. Wait a moment. I have no desire—

The SPEAKER. The gentleman will suspend for a moment. The rules are nearly silent, according to the Chair's recollection, as to debate upon such a motion. The Chair is informed that the precedents are that such a motion is debatable, in narrow limits, as shown in the precedents that have been made from time to time.

Mr. GAINES of Tennessee. I have the floor; I can cut this matter off very short.

The SPEAKER. One moment.

Mr. GAINES of Tennessee. I have the floor.

The SPEAKER. It seems that the Chair has the floor for just a minute. [Laughter.] It seems to the Chair that the gentleman from New York, making the motion to refer to the committee, if he desires to be recognized, will be entitled to recognition.

Mr. PAYNE. That is what I was suggesting.

The SPEAKER. Under the narrow limits of the language of the precedents, debate probably would not include any discussion of the merits of the proposition, but a discussion of the desirability of referring the resolution.

Mr. PAYNE. I desire to take the floor, Mr. Speaker.

Mr. GAINES of Tennessee. Now, Mr. Speaker—

Mr. PAYNE. But will yield to the gentleman from Tennessee—how much time?

Mr. GAINES of Tennessee. Five minutes.

Mr. PAYNE. I yield five minutes to the gentleman from Tennessee.

Mr. CLARK of Missouri. A parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. CLARK of Missouri. How did the gentleman from New York get possession of the floor to make that motion anyhow, when the gentleman from Tennessee had the floor?

Mr. PAYNE. On a privileged motion.

Mr. CLARK of Missouri. How did he take the floor? The gentleman was up and in possession of the floor—

Mr. PAYNE. That did not give him the floor.

Mr. CLARK of Missouri (continuing). And he was making a speech.

Mr. PAYNE. He made a motion; the Chair stated the motion to the House, and the gentleman from New York made a motion—a privileged one.

Mr. CLARK of Missouri. It seems to me the gentleman from New York "butted in" where he had no right.

The SPEAKER. The Chair need not state what the precedents are, but the Chair is satisfied that they are substantially uniform where a Member arises in his place and presents a resolution. After the resolution is presented the gentleman must have a second recognition, and between the two recognitions, a motion having intervened after the introduction of the resolution, following the precedents—and which the Chair deems to be the proper practice—the gentleman making the motion pending should be entitled to recognition—

Mr. GAINES of Tennessee. I understand the gentleman has yielded to me, although I am entitled—

The SPEAKER. The object being to enable the House to keep control of its business. The gentleman yields to the gentleman from Tennessee for five minutes.

Mr. GAINES of Tennessee. I think I am entitled to the floor in my own right, but I will say what I have to say at this time in five minutes.

Now, Mr. Speaker, first and foremost, I feel personally distressed to make this motion, but let us see where we are drifting. Suppose the Speaker were to direct the Sergeant-at-Arms to go out and arrest and bring into this House its absent Members. He would have to go to the State of Connecticut and bring the governor of the State of Connecticut. Suppose a Senator were to die, and while the distinguished gentleman was here on the floor of this House acting as a Member he would have to go back to the State of Connecticut to appoint a Senator to fill the vacancy.

Again (and I just make this statement now to show you where we can land), suppose there was an impeachment proceeding in the Senate and the gentleman from Connecticut [Mr. LILLEY] had voted against the impeachment, and a Connecticut Senator were to die, and Governor LILLEY should go back to Connecticut and appoint his successor. Whether he appointed, with the best of motives, the proper man or not, he would be accused of appointing a man to vote his way in the Senate on the question of impeachment, and especially if he did so vote.

Mr. Speaker, the position of governor of the State of Connecticut, or any other State, is wholly "incompatible" with

the duties of a Member of Congress. Including congressional cases, there are several court decisions on this subject, one (Calloway v. Sturm, 1 Hiesk. Reports) from the State of Tennessee, that shed a great deal of light on the subject.

Ex-Postmaster-General Maynard, while a Member of Congress from Tennessee, was appointed to a supreme court judgeship in that State, and the court declared "he thereby vacated his office as a Member of Congress. I shall not quote fully from that authority, because I have not the time:

It is settled—

Said the court—

that on the acceptance and qualification of a person to a second office, incompatible with the one he is then holding, the first office is ipso facto vacated. It operates as an implied resignation—an absolute determination of the original office (citing 2 Hill, 93, and other cases).

There is a case from the State of South Carolina (State v. Butt, 9 S. C., 156-186). Butt was elected district attorney or solicitor and was later on elected a Member of Congress, and he came here and qualified as a Member of Congress, and under a quo warranto proceeding the supreme court of that State declared that he had thereby forfeited the office of district attorney or solicitor.

A city officer in New York was elected and qualified as a Member of this House, and the court held the city office thereby became vacated (76 N. Y. Rept., 509).

Mr. CAULFIELD. Mr. Speaker, a point of order.

Mr. GAINES of Tennessee. Do not take my time.

Mr. CAULFIELD. A point of order, Mr. Speaker.

Mr. GAINES of Tennessee. I object to being interrupted.

Mr. CAULFIELD. I make the point of order that the gentleman is not talking to the motion to refer, but to the resolution, and that he is out of order.

Mr. GAINES of Tennessee. Oh, well, it is a very serious matter, Mr. Speaker, and I am very glad that the Judiciary Committee is to get hold of it. That is a committee of great lawyers. Now, if the gentleman—

The SPEAKER. The Chair being engaged in other matters, was not paying close attention to the remarks of the gentleman from Tennessee.

Mr. GAINES of Tennessee. I was just citing some authorities.

The SPEAKER. The Chair will dispose of the point of order by stating that the gentleman from Tennessee knows what is in order, and the gentleman will proceed in order.

Mr. GAINES of Tennessee. I was in order, Mr. Speaker, and I am trying to bring about order. Now, here is Congressman LILLEY, who may or may not, in fact, have notified Governor LILLEY that Congressman LILLEY has resigned; while neither has notified the Speaker that he has resigned. Now, what might occur in case we sent for Governor LILLEY to come here and help to attend to the business of this House? Suppose a law should be passed here by his, a deciding, vote? Do you not know that it might be attacked in the courts? Why do we run into such a dangerous condition without consideration? We know there are precedents where Members of the House have stated to the Speaker, by letter or otherwise, that they have resigned. There are other cases where they have not. But is the House to be held up for want of notice?

Mr. TOWNSEND. What provision of the Constitution has been violated in this case?

Mr. GAINES of Tennessee. I want the Judiciary Committee to pass on the question. I say it is a matter that goes to the very fundamental rights of this House and of Congress, omitting the rights of the people of the State of Connecticut. Now, Mr. Speaker, without more, and with the sincere desire that this great question be settled for all time by the Judiciary Committee and by this great body, I will yield the floor.

Mr. PAYNE. Mr. Speaker, I yield five minutes to the gentleman from Connecticut [Mr. HIGGINS.]

Mr. HIGGINS. Mr. Speaker, I have listened, as I always do, with a great deal of attention to the distinguished gentleman from Tennessee [Mr. GAINES] who, I regret, is going to leave this body on the 4th of next March; and I only want to say that he is, as I understand it, entirely mistaken in the facts.

It is true that GEORGE L. LILLEY, formerly a Member of this House, was elected by the people of the State of Connecticut as chief executive, and is now governor of Connecticut. Now, let me say that it is my understanding—although I want to be perfectly frank with this House, and say that I have seen newspaper items in my own State indicating that the statement that I am about to make is not the fact—but it is my understanding, without having actually seen the written resignation of Governor LILLEY as a Member of this House, that he did resign to his predecessor, Governor Woodruff, and that he resigned before he qualified, as he did last Wednesday, as governor, and that he is



no longer a Member of this House. I believe that he has not notified, as I understand is the custom and practice, but not the law, the Speaker of the House of Representatives of the fact of his resignation. However, I can not say about that, but from what I have seen by casual reading in the Connecticut papers, I should say that he had not.

Mr. HENRY of Texas. Will the gentleman yield?

Mr. HIGGINS. I will not at present. I would say that it is my belief that he has resigned to the governor, and there can not be any question, for precedents establish that fact, that a resignation of a Member to the governor of the State he represents is a release by him of the office which he holds. Now, I will yield to the gentleman from Texas.

Mr. HENRY of Texas. Is it not a fact that the same newspaper article which the gentleman refers to stated that the governor of Connecticut refused to accept the resignation of Mr. LILLEY on the ground that it was not necessary to go to the expense of having a special election to fill the position vacated by him?

Mr. HIGGINS. I will say to the gentleman that there have been many newspaper articles upon this and a great many other subjects, and I do not speak of any one particular newspaper article. I say further to the gentleman that if Governor LILLEY did resign, as I understand to be the fact, as I stated to the House, not of my own knowledge, but of my personal belief, for I do not wish to deceive the House for one moment, his successor was elected to qualify on the 4th day of next March, and I say in my opinion there is no law in Connecticut which requires the executive to immediately and forthwith call a special election. I say further to the gentleman that I do not believe it would be necessary, or that it is necessary, to fill the unexpired term from the date of his resignation until the 4th of next March.

Mr. HENRY of Texas. Was there not another newspaper story or interview with Mr. LILLEY—

Mr. HIGGINS. Oh, I can not state what all of the Connecticut newspapers have printed. I am willing to assume that the gentleman from Texas has employed a news-clipping bureau of the newspaper articles in Connecticut on this subject, but I have not. I can simply say that there have been a great many articles printed on this and other subjects in which Mr. LILLEY's name was used more or less as a text, and they have received wide circulation.

Mr. GAINES of Tennessee. Will the gentleman from Connecticut yield just a moment for a question? The gentleman has stated that Mr. LILLEY sent to the former governor his resignation.

Mr. HIGGINS. I do not state it as a fact, but I do state it as a Member of this House—for I would not deceive the House for a moment—that that is my opinion about it, and my belief.

Mr. GAINES of Tennessee. Oh, the gentleman would not deceive anybody.

Mr. HIGGINS. I have never been told by Governor Woodruff or Governor LILLEY, or by anyone else, that Governor LILLEY has resigned from this House.

Mr. GAINES of Tennessee. I want to ask why, after he sent his resignation to former Governor Woodruff and he would not accept it, why does not Congressman LILLEY notify Governor LILLEY that Congressman LILLEY has resigned and abandoned his office? [Laughter.]

Mr. HIGGINS. Oh, I was in hopes the gentleman from Tennessee would not ask any such question.

Mr. MACON. Mr. Speaker, I would like to have the gentleman from New York yield to me to ask a question of the gentleman from Connecticut.

Mr. PAYNE. I will yield for a question.

Mr. MACON. I want to ask the gentleman from Connecticut, in view of the statement the gentleman from Connecticut has just made, if he would not be willing now to ask unanimous consent that the name of Mr. LILLEY be dropped from the rolls of the House?

Mr. HIGGINS. Why, Mr. Speaker, I have been a Member of this House long enough to believe in orderly procedure; I believe that is the best procedure, and I believe the motion made by the gentleman from New York [Mr. PAYNE] ought to be adopted by this House, the resolution sent to the Judiciary Committee, that they may investigate this question, that we may be as fully informed as possible.

Mr. WILLETT. Will the gentleman from New York yield for an amendment?

Mr. PAYNE. No; I will not.

Mr. Speaker, this debate has shown that the motion referring this resolution to the Judiciary Committee ought to be adopted by the House. The gentleman from Connecticut states that it

is his belief that Mr. LILLEY resigned to his predecessor before he was inaugurated as governor of Connecticut. The House ought to have an opportunity to ascertain the fact in regard to that, because if he did resign, in my humble opinion, he ceased to be a Member of the House; and the law gives to the governor of Connecticut no right to refuse to accept a resignation of a Member of this House; he can not compel him to remain a Member. If any gentleman doubts the law on that subject, then it should go to the Judiciary Committee, that they may report to the House on the question, so that there can be no question about the propriety of this motion. I move the previous question, Mr. Speaker.

Mr. GAINES of Tennessee. Will the gentleman accept an amendment that the committee report within five days?

Mr. WILLETT. That is the amendment I wish to offer.

Mr. PAYNE. I will consent to a modification of the resolution that the committee report within ten days.

Mr. GAINES of Tennessee. Very well.

The SPEAKER. The Clerk will report the modification.

The Clerk read as follows:

And that the Committee on the Judiciary be instructed to report back to the House within ten days.

The SPEAKER. The gentleman from New York moves the previous question on his motion to refer the resolution as amended to the Committee on the Judiciary.

The previous question was ordered.

The SPEAKER. The question now is on agreeing to the motion.

The question was taken, and the motion was agreed to.

RIGHT OF WAY ACROSS NIOBRARA MILITARY RESERVATION.

Mr. KINKAID. Mr. Speaker, I ask unanimous consent for the present consideration of the bill (S. 8143) granting to the Chicago and Northwestern Railway Company a right to change the location of its right of way across the Niobrara Military Reservation, which I send to the desk and ask to have read.

The SPEAKER. The Clerk will report the title of the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection? The Chair will state that this bill was read yesterday.

Mr. WILLIAMS. Mr. Speaker, is not this the day set apart for private claims?

The SPEAKER. Yes.

Mr. WILLIAMS. And matters to be considered from the Committee on Claims?

The SPEAKER. Yes.

Mr. WILLIAMS. Well, it seems to me that that committee ought to have the day, and if unanimous consents are to be given, it will postpone the consideration of matters on the Private Calendar. I will ask the Speaker if there are any more requests for unanimous consent?

The SPEAKER. The Chair has been applied to by one gentleman who desires to fix the time for eulogies on a deceased Member.

Mr. WILLIAMS. I shall not object.

The SPEAKER. The Chair hears no objection.

Mr. MANN. Mr. Speaker, I offer the following amendment, which I send to the desk and ask to have read.

The Clerk read as follows:

Add a new section, to read as follows:  
"Sec. 2. The right to alter, amend, or repeal this act is hereby expressly reserved."

Mr. KINKAID. Mr. Speaker, the amendment is agreeable.

The SPEAKER. The question is on the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. The question now is on the third reading of the Senate bill as amended.

The bill was ordered to be read a third time, read the third time, and passed.

EULOGIES.

Mr. FOELKER. Mr. Speaker, I ask unanimous consent for the present consideration of the following order, which I send to the desk and ask to have read.

The Clerk read as follows:

House order No. 14.

Ordered, That there be a session of the House at 12 m. on Sunday, January 24, 1909, for the delivery of eulogies on the life, character, and public services of the Hon. CHARLES T. DUNWELL, late a Member of this House from New York.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question now is on agreeing to the order.

The question was taken, and the order was agreed to.

## FREIGHT RATES.

Mr. MADDEN. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman rise?

Mr. MADDEN. Mr. Speaker, I ask unanimous consent to discharge the Committee on Interstate and Foreign Commerce from the further consideration of privileged House resolution 479, which I send to the desk and ask to have read.

The Clerk read as follows:

House resolution 479.

*Resolved*, That the Interstate Commerce Commission be required to inform the House, as soon as may be, what advances have occurred in freight rates in different parts of the United States since the passage of the Hepburn amendment, June 29, 1906; whether such advances have been occasioned by an advance in the tariff rate or by a change in classification or by charging for some privilege which was formerly accorded free.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The question now is on agreeing to the motion of the gentleman from Illinois.

The question was taken, and the motion was agreed to.

Mr. MADDEN. Mr. Speaker, I now move the adoption of the resolution.

The SPEAKER. The question is on the motion of the gentleman from Illinois that the resolution be agreed to.

The question was taken, and the resolution was agreed to.

## PENSION APPROPRIATION BILL.

Mr. KEIFER. Mr. Speaker, I desire to announce that the pension appropriation bill was to have been called up to-day, and to give notice that it will not be called up until to-morrow after the reading of the Journal.

## PRIVATE CLAIMS.

Mr. MILLER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, in order to-day.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House for the consideration of bills on the Private Calendar, with Mr. CURRIER in the chair.

Mr. MILLER. Mr. Chairman, I now desire to ask unanimous consent to take up such bills on the Private Calendar as are in order to-day that are not objected to. I do that for the reason that I believe if we can take up bills which are not objected to we can clear the calendar this afternoon, but if we are to take up bills to which there is objection we will spend the entire afternoon in discussion of them, and thus defeat the passage of many bills which have been favorably acted upon.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent that bills be taken up to which no objection is made.

Mr. PARKER. Mr. Chairman, I understand that to mean that bills will be taken up in their order, and if objection be made they will be passed without prejudice; I do not want to lose the order.

Mr. MILLER. Yes; passed without prejudice.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

Mr. LANGLEY. Will the gentleman permit me to ask a question? Reserving the right to object, suppose we get through with the bills to which there is no objection?

Mr. MILLER. Then we go ahead on the calendar in the regular order and dispose of those objected to. That is what we want to do.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

H. C. LINN AND SAMUEL POWELL.

The first business on the Private Calendar was the bill (H. R. 14000) for the relief of H. C. Linn and Samuel Powell.

Mr. MILLER. Mr. Chairman, I ask to have that passed.

The CHAIRMAN. Passed without prejudice?

Mr. MILLER. Passed without prejudice. I may say that one of the parties to that bill is dead, and I want to have the bill passed without prejudice.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

WILLIAM JENNEY.

The next business on the Private Calendar was the bill (H. R. 17059) for the relief of Mate William Jenney, U. S. Navy, retired, and eight other retired mates, who have been placed on the retired list with the rank and pay of one grade above that actually held by them at the time of retirement.

Mr. BUTLER. Mr. Chairman, will the Clerk please furnish me with the calendar number of the bill?

Mr. MILLER. 921.

Mr. BUTLER. I ask that that bill may be passed by without prejudice, as I understand that all the relief asked for has been given to these men by general law.

The CHAIRMAN. The gentleman from Pennsylvania asks that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

PHOEBE CLARK.

The next business on the Private Calendar was the bill (H. R. 11632) for the relief of Phoebe Clark.

Mr. MANN. I ask that that bill be passed without prejudice.

The CHAIRMAN. The gentleman from Illinois asks that the bill be passed without prejudice. Is there objection? [After a pause.] The Chair hears none.

DAVISON CHEMICAL COMPANY, BALTIMORE, MD.

The next business on the Private Calendar was the bill (S. 4632) for the relief of the Davison Chemical Company, of Baltimore, Md.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the Davison Chemical Company, of Baltimore, Md., the sum of \$13,460, in payment for damages sustained to the sulphuric-acid plant owned by said company and located at Hawkins Point, Maryland, by reason of the firing of high-power guns at Fort Armistead, Md., in April, 1903, said amount having been found due the said company by two boards of army officers convened by the Secretary of War, as set forth in House Document No. 659, second session Fifty-eighth Congress.

Mr. MANN. Mr. Chairman, I offer the following amendment. The CHAIRMAN. The gentleman from Illinois offers the following amendment, which the Clerk will report.

The Clerk read as follows:

In line 7, after the word "in," insert the word "full," and in line 8, before the word "damages," insert the word "all," so that the bill will read, "in full payment for all damages received."

Mr. MILLER. Mr. Chairman, on behalf of the committee, I desire to say the amendment is entirely acceptable to the members of the committee.

Mr. SABATH. What is this damage for?

Mr. MANN. It was damages caused by firing of cannon to a chemical manufacturing plant. It is very fully set out in the report and there is no question but that the damages ought to be allowed, but the damages allowed are not the damages claimed, and I wish to insert in the bill saying that it is in full payment for all damages, and dispose of the claim for all time.

Mr. FINLEY. Which was located there first—the chemical plant?

Mr. MANN. The chemical plant was located there first.

The amendment was agreed to.

Mr. MILLER. I move that the bill as amended be laid aside with a favorable recommendation.

The motion was agreed to, and the bill was laid aside with a favorable recommendation.

SAMUEL J. ROGERS.

The next business on the Private Calendar was the bill (H. R. 12712) for the relief of the estate of Samuel J. Rogers.

Mr. MANN. Mr. Chairman, I ask to have that bill go over without prejudice.

The CHAIRMAN. Under the rule it will be passed without prejudice.

VOLUNTEERS IN CAYUSE INDIAN WAR.

The next business on the Private Calendar was the bill (H. R. 19859) to provide for the payment of certain volunteers who rendered service to the Territory of Oregon in the Cayuse Indian war of 1847 and 1848.

Mr. MILLER. Mr. Chairman, I call attention to the fact that the Clerk has omitted calendar No. 972, entitled: "A bill for the relief of the estate of Samuel J. Rogers."

The CHAIRMAN. The Chair will state to the gentleman from Kansas that the Clerk did read that bill in its order, and the gentleman from Illinois [Mr. MANN] objected to it.

Mr. MANN. I thought I was objecting to Calendar No. 970. That is what the Clerk read. I understood him to read Calendar No. 970, H. R. 1536. I make no objection to Calendar No. 972.

The CHAIRMAN. The Clerk will report the bill.

Mr. MILLER. The Clerk should report the bill, Calendar No. 970, from the Committee on Military Affairs, and that is the one to which the gentleman from Illinois [Mr. MANN] objects.

WILLIAM MITCHELL.

The CHAIRMAN. The Clerk will report the bill.

The Clerk read as follows:

A bill (H. R. 1536) authorizing the Secretary of War to recognize William Mitchell, deceased, as having been a member of Company C, First Regiment Tennessee Volunteer Mounted Infantry, civil war.



Mr. MANN. I ask to have that go over. I object to it.

Mr. PARKER. I wish the gentleman would not object. That is a case where a man was killed after enlistment and before muster, leaving a wife and five children. It is a case that really begs.

Mr. MANN. The case will be reached later in the afternoon. Mr. MILLER. Let it be passed now.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice, and the Clerk will report the next bill.

SAMUEL J. ROGERS.

The next business on the Private Calendar was the bill (H. R. 12712), for the relief of the estate of Samuel J. Rogers.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to redeem, in favor of the estate of Samuel J. Rogers, United States 4 per cent registered bond, funded loan of 1907, No. 27101, for \$500, inscribed in name of Samuel J. Rogers and alleged to have been lost: *Provided,* That the legal representative of said estate shall first file in the Treasury a bond in the penal sum equal to the amount of the principal and the accrued interest thereon, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any claim on account of the lost bond hereinafter described and the accrued interest thereon.

Mr. MACON. Reserving the right to object, I would like to have the gentleman make a statement.

Mr. MILLER. It is simply for the payment of a bond that has been lost, and the department recommends the legislation.

Mr. SLAYDEN. What is the nature of the security? Is it a bonding company or an individual bond?

Mr. MILLER. I will read from the report:

The bond has been called for redemption, and matured and ceased to bear interest July 2, 1907. No claim for the bond has been presented to this department by any person other than the administrator of the estate of the payee, and while the evidence as to the probable condition of the bond is inconclusive, in view of the fact that the bond has been a matured bond for more than six months without the presentation of any claim therefor, the department sees no reason for interposing any objection to its redemption in favor of the payee under the terms set forth in the bill in question.

Mr. MACON. This is just to substitute a bond for a lost bond?

Mr. MILLER. That is all.

Mr. MACON. And security properly given guaranteeing that the other bond will never be presented?

Mr. SLAYDEN. The question raised in my mind is as to the character of the security the Government usually receives in cases of that kind. If it is an individual, he may be solvent to-day and insolvent to-morrow. If it is a well-established bonding company, with a long time or a perpetual charter, the Government is more secure than if it is an individual.

Mr. MANN. I am not able to tell the gentleman, but there is one case on the calendar where they had to put up a government or some other bond.

Mr. SLAYDEN. That is still better, Mr. Chairman.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

#### CAYUSE INDIAN WAR.

The next business on the Private Calendar was the bill (H. R. 19859) to provide for the payment of certain volunteers who rendered service to the Territory of Oregon in the Cayuse Indian war of 1847 and 1848.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to adjust and settle, through the office of the Auditor for the War Department, the claims for pay for services in the Cayuse Indian war of 1847 and 1848, in Oregon, of John Minto and Charles Balda, and of Ellen E. Hackett, widow of John C. Hackett; Missouri A. Cornelius, widow of Thomas R. Cornelius; Mary J. Keizer, widow of John B. Keizer; Amanda Reese, widow of Willard H. Reese; Mary E. Carnahan, widow of Hiram Carnahan; Polly C. Butler, widow of Isaac Butler; and Sarah E. Schantz, widow of P. C. Keizer, at the rate of \$1.50 per day, the same as was paid to those whose claims have already been settled, the length of service to be taken from the rolls of this war now on file in the office of the Military Secretary of the War Department or the records of said war on file in the office of the adjutant-general of the State of Oregon; and the sum of not more than \$1,500, or as much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to enable the accounting officers of the Treasury to pay the aforementioned claims, and this sum, not to exceed \$1,500, is made available until all of these claims are settled or fully disposed of.

The amendment recommended by the committee was read, as follows:

In the name "Balda," as it appears in line 8, on page 1, strike out the letter "a" and insert in lieu thereof the letter "o," so as to make it read "Charles Bolds."

Mr. HOLLIDAY. Mr. Chairman, I would like to ask the gentleman if he knows how the Committee on Claims obtained jurisdiction of this bill? The bill clearly belongs to the Committee on War Claims. I have an indistinct recollection that that committee at one time had that bill under consideration. It is certainly a war claims bill, and not a private claim.

Mr. MANN. Is the Cayuse Indian war recognized as a war by the Government?

Mr. HOLLIDAY. I think so. If the gentleman from Kansas can make a satisfactory explanation, I shall not raise any question.

Mr. MILLER. This bill came to the Committee on Claims in the regular orderly procedure of the House. It was referred to the Committee on Claims, and no Member raised any question as to the jurisdiction of that committee. We assumed jurisdiction, and the bill being there, the question not being raised, we have given careful consideration to it, and report the bill back to the House and ask the adoption of the amendment to the bill recommended in the report.

Mr. FINLEY. I would like to ask the gentleman from Kansas a question. The amount carried in this bill does not exceed \$1,500, does it?

Mr. MILLER. No, sir.

Mr. MACON. Mr. Chairman, I would like to ask the gentleman about the facts with reference to this bill. I could not hear the bill being read, because of the conversation going on in front.

Mr. MILLER. Mr. Chairman, I will say to the gentleman that all the claims in reference to this matter, or nearly all of them, were presented and paid. There were a few persons who did not present their claims, because they did not know they were entitled to receive pay for their service. Afterwards they were presented, and the money which had been appropriated to pay all the claims had been turned into the Treasury, and there was no way for the Treasury Department to pay these claims. This is for the purpose of giving the Treasury Department the right to pay them.

Mr. MACON. A lot of belated claims.

Mr. MILLER. That is all. There is no question as to the merits of the claims.

Mr. FINLEY. How did the department arrive at a dollar and a half a day as being the proper amount to allow?

Mr. MILLER. That was based upon the amount on which all the other claims were adjusted and paid.

The amendment recommended by the committee was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

#### O. MAURY & CO.

The next business on the Private Calendar was the bill (S. 2969) for the relief of O. Maury & Co., of Bordeaux, France.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to L. Renard, agent of O. Maury & Co., of Bordeaux, France, in full reimbursement of losses sustained by them by reason of the erroneous detention and subsequent destruction by the Bureau of Chemistry of the Department of Agriculture of three casks of wine imported into the United States by said firm, which payment is recommended by said department, the sum of \$238.15, which amount is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

Mr. MACON. Before that is done, I am going to ask the gentleman to explain the bill. It is for wine.

Mr. MILLER. Mr. Chairman, let me read what the Secretary of Agriculture says about it:

WASHINGTON, February 13, 1908.

SIR: As requested in your letter of February 6, 1908, I inclose herewith, for use of the committee, the original papers, or copies of same, on file in this department relating to the claim of O. Maury & Co., amounting to \$238.15, referred to in Senate bill 2969. As evidenced by the papers, this claim has been submitted by me to Congress several times, and will be found this year in the general deficiency bill now under consideration by the Committee on Appropriations in the House. In my opinion the claim is a just one and should be allowed. Kindly return papers.

Very respectfully,

JAMES WILSON, Secretary.

Mr. MANN. I think I can explain the bill on the other proposition. Under the law now where wine comes into this country, the Secretary of Agriculture takes samples to see whether it is adulterated or misbranded. Pending the examination the sample of the wine may be placed in a warehouse or stored. In this case the wines were sampled and the sample was placed in a warehouse or in storage waiting the decision of the Government, and while there, because it was so waiting, it was spoiled and became valueless. Therefore it was thought proper that the Government should refund the value of the wine. It is

probably the only case that has arisen during the enforcement of the pure-food law.

Mr. MACON. I want to ask this question: Was it spoiled by reason of the act of any officer of the Government?

Mr. MANN. It was admitted, I think, that it was spoiled without negligence on the part of the Government.

Mr. MACON. How do you know it was not bad wine and spoiled?

Mr. MANN. It was not bad wine, and spoiled, because the sample proved that the wine was good.

Mr. MACON. I am going to object to this bill.

Mr. KAHN. I hope the gentleman from Arkansas will withdraw his objection.

Mr. MACON. The explanation has not been satisfactory to me.

Mr. KAHN. Samples of the wine were put in the government warehouse, and the Secretary again this year strongly recommends that this item be included in the general deficiency bill.

The department has had the wine in its possession. It is fully aware of all the incidents in connection with it, and the department itself recommends that this be paid, because of the conditions surrounding the claim.

Mr. MACON. Did the department detain it unusually long?

Mr. KAHN. I dare say that it may have been detained there for a long time pending these examinations. It was in the warehouse for some time. It was only a part of the shipment. The conclusion of the gentleman that the wine may have been bad is not maintained, because the balance of the wine certainly was good.

Mr. MACON. Was it used up promptly? What became of it?

Mr. KAHN. It was sold in San Francisco.

Mr. MANN. Oh, no.

Mr. KAHN. This wine was destroyed, but the balance was sold in San Francisco.

Mr. BUTLER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. BUTLER. Will the Chair please indicate what constitutes an objection to a bill?

Mr. MACON. Oh, I suppose I can reserve the right to object. That is all I have done. I objected, and the gentleman asked me to reserve my objection, and out of courtesy to him I have done so.

Mr. BUTLER. I am not criticising my friend at all. I thought perhaps where bills required long explanation or were in dispute in any way they could be passed over.

Mr. KAHN. I will call the attention of my friend from Arkansas to this fact—

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside.

The CHAIRMAN. If there be no objection, the bill will be ordered to be laid aside with a favorable recommendation.

Mr. MACON. Mr. Chairman, I objected to the consideration of the bill.

Mr. KAHN. May I call the gentleman's attention—

The CHAIRMAN. Under the order made, if the gentleman insists upon his objection, the bill will be passed without prejudice.

Mr. KAHN. Will the gentleman withhold his objection for a moment until I can read from the report?

Mr. MANN. We will reach the bill again later for debate.

The CHAIRMAN. The Clerk will report the next bill.

LIEUT. COMMANDER JEROME E. MORSE, U. S. NAVY, RETIRED.

The next business was the bill (H. R. 4151) for the relief of Lieut. Commander Jerome E. Morse, U. S. Navy, retired.

Mr. MANN. Mr. Chairman, I shall object to that bill. I might as well do it before the reading as afterwards.

The CHAIRMAN. The bill will be laid aside without prejudice. The Clerk will report the next bill.

JOHN M. HILL.

The next business was the bill (H. R. 18600) for the relief of John M. Hill.

Mr. MANN. I make the same statement with reference to that bill.

The CHAIRMAN. The same order will be entered. The bill will be laid aside without prejudice. The Clerk will report the next bill.

WYATT O. SELKIRK.

The next business was the bill (H. R. 18726) for the relief of Wyatt O. Selkirk.

The bill was read, as follows:

*Be it enacted, etc.,* That the name of First Lieut. Wyatt O. Selkirk shall be advanced to a place next above the name of First Lieut. George A. Wildrick on the lineal list of officers of the Coast Artillery Corps,

and that thereafter the name of Lieutenant Selkirk shall be borne in that relative position on the records of the War Department and on the Army Register.

The CHAIRMAN. Unless objection is heard the bill will be laid aside with a favorable recommendation.

Mr. FINLEY. I would like an explanation.

Mr. PARKER. This is requested by the Chief of Staff.

Mr. SLAYDEN. That is not the best reason, but it is one reason. Mr. Selkirk was appointed to the army from my State but not from my district. He was sent to Fort Leavenworth to take the examination.

Mr. MILLER. Mr. Chairman, I understood the bill had been laid aside with a favorable recommendation.

The CHAIRMAN. Unless objection is made the bill will be laid aside with a favorable recommendation.

There was no objection.

ULYSSES G. WINN.

The next bill on the Private Calendar was the bill (S. 604) to reimburse Ulysses G. Winn for money erroneously paid into the Treasury of the United States.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That there be, and is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, the sum of \$132.80, to reimburse Ulysses G. Winn for said amount, erroneously deposited by him while United States commissioner at Center and Stonewall, in the southern district of the Indian Territory, in the years 1900 and 1901, and which were paid into the Treasury of the United States.

The bill was laid aside to be reported to the House with a favorable recommendation.

JOHN H. LAYNE.

The next business on the Private Calendar was the bill (H. R. 15098) to correct the military record of John H. Layne.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of War be, and he is hereby, authorized and directed to correct the military record of John H. Layne, late private in Company G, Nineteenth Regiment U. S. Infantry, war with Spain, who was injured at Ponce, P. R., while volunteering to help save government stores which were about to be washed away by a rapidly rising stream, and have his discharge read: "Discharged by reason of injuries incurred in the line of duty," instead of "Discharged by favor."

Mr. PARKER. There was simply a mistake in the discharge.

The bill was laid aside to be reported to the House with a favorable recommendation.

HARRY KIMMELL.

The next bill on the Private Calendar was the bill (H. R. 17214) for the relief of Harry Kimmell, a commander on the retired list of the United States Navy.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, Harry Kimmell, now a commander on the retired list of the United States Navy, a commander on the active list of the navy, to take rank next after Frederick C. Bieg: *Provided*, That the said Harry Kimmell shall establish to the satisfaction of the Secretary of the Navy, by examination pursuant to law, his physical, mental, moral, and professional fitness to perform the duties of that grade: *And provided further*, That the said Harry Kimmell shall be carried as an additional to the number of the grade to which he may be appointed under this act or at any time thereafter promoted: *And provided further*, That the said Harry Kimmell shall not by the passage of this act be entitled to back pay of any kind.

Mr. OLLIE M. JAMES. Mr. Chairman, I would like to hear an explanation of that bill.

Mr. MANN. Mr. Chairman, I have read over the report. This is to authorize the President to place a man back on the active list, now on the retired list, with a certain rank. The report says that as lieutenant-commander he has had two months' sea service and is fully equal to any in the grade to which he is to be nominated if this bill passes. The department says it needs more officers in the navy, and there seems to be some justification for it, although as a general principle these bills ought not to be passed.

Mr. OLLIE M. JAMES. What I would like to know is, Why did he quit the service originally, and why do they want to put him back in the rank which probably he would have obtained if he had stayed in the service?

Mr. BUTLER. The gentleman from Iowa [Mr. Dawson] reported the bill and is familiar with the facts. I know enough of them, perhaps, to answer the gentleman's question.

Mr. MANN. I think I can answer the gentleman's question. Under the personnel act it is required that a certain number of officers shall quit the service. If they do not quit voluntarily, they put them before a board which puts them out. This man's wife was very ill and not expected to live. Thereupon he resigned from the service in order to take care of his wife, at the same time being one of those who would otherwise be put out of the service. His resignation was in 1899. After his wife



became better he desired to go back into the service, and they say he was a good officer. I have no interest in the case. All I know is from the reading of the report.

Mr. BATES. Mr. Chairman, the gentleman from Illinois has stated the facts as well as could any member of the committee. The gentleman from Iowa [Mr. Dawson] reported the bill. It is a fact, however, that the man is ready for active duty, and this will enable him to perform it, and the service needs more active men.

The CHAIRMAN. Unless objection is heard, the bill will be laid aside to be reported with a favorable recommendation.

There was no objection.

#### SANFORD A. PINYAN.

The next business on the Private Calendar was the bill (H. R. 19871) for the relief of Sanford A. Pinyan.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That Sanford A. Pinyan shall hereafter be held and considered to be entitled to all of the rights and benefits that he would be entitled to on account of military service, except pay, bounty, and other emoluments, if he had been continuously in the military service of the United States as a private of Company A, First Regiment Georgia Volunteer Infantry, from the 1st day of August, 1864, to the 4th day of November, 1864, and had been honorably discharged on the date last named herein.

The bill was laid aside to be reported with a favorable recommendation.

#### MILLE LAC BAND OF CHIPPEWA INDIANS.

The next business on the Private Calendar was the bill (S. 5330) for the relief of the Mille Lac band of Chippewa Indians in the State of Minnesota, and for other purposes.

The Clerk read the bill.

Mr. MANN. I ask to have that go over without prejudice.

The CHAIRMAN. That order will be made.

#### TREASURER OF THE UNITED STATES.

The next business was the bill (S. 4049) authorizing a credit in certain accounts of the Treasurer of the United States.

The bill was read.

Mr. MACON. Mr. Chairman, I object to the present consideration of the bill.

The CHAIRMAN. The gentleman from Arkansas objects to the present consideration of the bill, and it will be passed without prejudice.

#### HASTINGS STEAMBOAT COMPANY.

The next business was the bill (S. 4427) for the relief of Hastings Steamboat Company.

Mr. MANN. Mr. Chairman, I will ask to have that bill go over without prejudice.

The bill was ordered to be passed without prejudice.

#### MESSAGE FROM THE SENATE.

The committee informally rose; and Mr. CAPRON having taken the chair as Speaker pro tempore, a message from the Senate, by Mr. Crockett, its reading clerk, announced that the Senate had passed with amendments bill and joint resolution of the following titles, in which the concurrence of the House of Representatives was requested:

H. R. 23713. An act authorizing the construction of a bridge across Current River, in Missouri.

H. J. Res. 219. Joint resolution to accept the gift of Constitution Island, in the Hudson River, New York.

The message also announced that the Senate had passed joint resolutions and bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. R. 111. Joint resolution authorizing the rebuilding of the dormitory at Osage Boarding School, Oklahoma, recently destroyed by fire;

S. R. 114. Joint resolution authorizing the Secretary of War to dispose of certain bronze or brass cannon;

S. 7396. An act for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States;

S. 8005. An act authorizing the establishment of aids to navigation in Alaskan waters and making an appropriation therefor;

S. 8357. An act to extend the time for disposing of lands on the Huntley project, within the ceded Crow Indian Reservation, Mont.; and

S. 8430. An act authorizing the Secretary of the Interior to appraise lands in the Fort Peck Indian Reservation, Mont., and grant the same to the Great Northern Railway.

#### SENATE CONCURRENT RESOLUTIONS REFERRED.

Under clause 2 Rule XXIV, the following concurrent resolutions were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

#### Senate concurrent resolution 68.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made for a project of straightening of the Big Sioux River, in the State of South Dakota, and report same to the Congress—

to the Committee on Rivers and Harbors.

#### Senate concurrent resolution 65.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made for deepening the channel and the entrance to same of Warroad Harbor, Minnesota, and protecting the channel and entrance to the same by means of a dike or otherwise—

to the Committee on Rivers and Harbors.

#### Senate concurrent resolution 63.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, directed to cause a survey to be made of the bar of San Francisco Bay, in the State of California, to confirm the depths shown on the charts of the Coast and Geodetic Survey, and to cause estimates to be made for a project of improvement of the North, or Bonita, channel by the removal of Centissima and Sears rocks, and report the same to Congress—

to the Committee on Rivers and Harbors.

#### Senate concurrent resolution 64.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, directed to cause to be made a resurvey of Oakland Harbor, Alameda County, Cal., with a view of improving the same to meet the present and future demands of commerce, and to submit estimates of cost of the following three projects: Project No. 1, a channel 700 to 800 feet wide and 20 feet deep from San Francisco Bay to the foot of Tenth avenue extended, thence around Brooklyn Basin, 500 to 700 feet wide and 25 feet deep at low tide; project No. 2, same as project No. 1, except that depth be 34 feet at low tide; project No. 3, same as projects Nos. 1 and 2, except that the whole of Brooklyn Basin be dredged to pierhead line at a uniform depth of 25 or 34 feet at low tide—

to the Committee on Rivers and Harbors.

#### Senate concurrent resolution 57.

*Resolved by the Senate (the House of Representatives concurring),* That the two Houses of Congress shall assemble in the Hall of the House of Representatives on Wednesday, the 10th day of February, 1909, at 1 o'clock in the afternoon, pursuant to the requirements of the Constitution and laws relating to the election of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; that two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented, and acted upon in the alphabetical order of the States, beginning with the letter A; and said tellers, having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from the said certificates; and the votes having been ascertained and counted in the manner and according to the rules by law provided, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote, which announcement shall be deemed a sufficient declaration of the persons, if any, elected President and Vice-President of the United States, and together with a list of the votes, be entered on the Journals of the two Houses—

to the Committee on Election of President, Vice-President, and Representatives in Congress.

#### Senate concurrent resolution 60.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, authorized and directed to cause an examination and survey to be made of the shoal or bar at the entrance to Chincoteague Bay, with a view to the removal of said shoal or bar, and providing for a channel depth of 15 feet at that point, and to submit estimates for such improvement—

to the Committee on Rivers and Harbors.

#### Senate concurrent resolution 61.

*Resolved by the Senate (the House of Representatives concurring),* That the Secretary of War be, and he is hereby, directed to cause a survey and estimate to be made for a project of improvement of Lake Traverse, in the State of South Dakota and county of Roberts, and report same to the Congress—

to the Committee on Rivers and Harbors.

#### ROBERT DAVIS.

The committee resumed its session.

The next business was the bill (S. 6293) for the relief of Robert Davis.

The bill was read, as follows:

*Be it enacted, etc.,* That the proper accounting officers, in settling and adjusting the accounts of Robert Davis, first lieutenant, Second Regiment Field Artillery, U. S. Army, are hereby directed to credit the said Robert Davis with the sum of \$164.48, which amount of government funds was stolen from his safe on or about the 6th of February, 1904, by his post quartermaster-sergeant while the said Lieutenant Davis was acting as quartermaster at Fort Banks, Mass.

Mr. MANN. Mr. Chairman, this is a very small amount, and the bill proposes to pay \$164.48. If the bill is to be passed at all, we ought to pay the man what he lost, which was \$170.66.

There is a mistake in the bill in the amount. I read from the report:

It was established at the trial that Sergeant Pullar was intrusted with the sum of \$2.70 for the purchase of car tickets for use in the military service, and with the further sum of \$167.96, which he was to deposit in the subtreasury in Boston. Both of the sums were embezzled by the accused and converted to his own use.

Mr. MILLER. Mr. Chairman, I have here the official report made in this case showing the amount due to be \$164.48. That is taken from the official report of the Quartermaster-General.

Mr. MANN. Well, this is from the official report of the Advocate-General. I do not care anything about that, but I call attention to an amendment which I think ought to be made. This says that government funds were stolen from his safe on or about the 6th of February, and so forth. The funds were not stolen from the safe, but the report shows that they were embezzled by a clerk. There is no use of stating an erroneous fact in the bill.

Mr. MILLER. Mr. Chairman, let me suggest that this is a Senate bill, and that it has passed the Senate. I have no objection to any amendment that any Member may desire to offer. I think the amendment suggested by the gentleman is all right.

Mr. MANN. The gentleman may be correct, and perhaps it would be better to pass it than to take any chances.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID W. STOCKSTILL.

The next business was the bill (H. R. 8982) for the relief of David W. Stockstill.

Mr. MANN. Mr. Chairman, I ask to have that bill go over. The bill was passed without prejudice.

R. A. SISSON.

The next business was the bill (H. R. 10187) for the relief of R. A. Sisson.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any funds in the Treasury not otherwise appropriated, the sum of \$88.48 to R. A. Sisson, light-house keeper of Bloody Point Range, Daufuskie Island, Beaufort County, S. C., for the loss and destruction of his property during the cyclone of 1893.

Mr. MANN. Mr. Chairman, I shall not object to the consideration of the bill, but I would like to ask the gentleman a question. Last year, because I was the chairman of the subcommittee of the Committee on Interstate and Foreign Commerce on light-houses, I introduced a bill covering a number of claims of this sort where light keepers had lost their property through staying at their posts of duty in case of storm, most of them probably along the Gulf of Mexico, under circumstances such as that at Galveston, which seemed to absolutely warrant the Government in making the payment. These claims have been reported by the Light-House Board to Congress year after year, being referred to our committee, which has no jurisdiction of the claims. This is one of the claims covered in the entire bill. I simply wish to ask the gentleman if the committee has yet had the opportunity to consider the bill covering all of those claims. I do not wish to press the committee at all.

Mr. MILLER. Mr. Chairman, the committee is giving consideration to all of them, and I think all of them ought to be paid.

Mr. MANN. I introduced a general bill covering all of them.

Mr. MILLER. It is the general bill that we will report.

Mr. MACON. I want to ask the chairman a question and that is, What the Government has to do with the destruction of property by cyclone? I thought that would be an act of God and not of the Government.

Mr. MANN. I will say to the gentleman, because this matter really comes more within the jurisdiction, so far as the general purpose is concerned, of the committee I am on than the Committee on Claims, that the Government expects a light-house keeper to remain at the light-house and keep the light going regardless of weather conditions—

Mr. MACON. Tell me what property was destroyed by reason of his staying at his post.

Mr. MANN. The cyclone destroyed the light-house and his property with it.

Mr. MACON. What property did he have to keep there?

Mr. MANN. It destroyed his groceries and things of that sort, property he had to keep there upon which to live, things of that kind. The amount is \$88.48.

Mr. MACON. Let me illustrate. Mr. Reid is now the ambassador to England. He resides in London. As such he is required to stay there to represent the Government, and as such, I suppose, he furnishes his own house and he must have furni-

ture there. If a cyclone were to come along and destroy his furniture and his plate, would this Government have to reimburse him for it?

Mr. MANN. Oh, plainly not; but let me illustrate the case—

Mr. MACON. A light-house keeper has to stay at his post if a cyclone happens to come along and destroys something that he may have had there.

Mr. MANN. I suppose you may say a cyclone happens to come along, but you can not differentiate very well. Take the case of Galveston, where it was known for some time in advance the danger of remaining at the post of duty, and there were other cases of the same sort. Now, if a light-house keeper abandons a light-house it might cause great damage to shipping and, in my judgment, he ought to be permitted to stay there with the assurance that if he dies his family will receive a pension; but that is not involved here at all, but he certainly ought to receive the assurance that if he endeavors to stay there to attend to his duty, instead of carrying out his own property, as would be natural, that he would be reimbursed.

Mr. CANDLER. And, permit me to say, light-house keepers do not receive very large salaries, to say the least, and when they incur the danger of staying there their little personal effects ought to be paid for in case they are lost.

Mr. MACON. I do not object.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside with a favorable recommendation.

MARCELLUS BUTLER.

The next business on the Private Calendar was the bill (H. R. 17960) for the relief of Marcellus Butler.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay Marcellus Butler, out of any funds in the Treasury not otherwise appropriated, the sum of \$100, for services rendered to the Committee on Invalid Pensions from March 5, 1901, to December 1, 1901.

Mr. MANN. Mr. Chairman, I think the bill had better go over.

Mr. MILLER. Oh, no.

Mr. MANN. Then, Mr. Chairman, reserving the right to object, I call the attention of the gentleman to the proposition that this bill, which may be all right, is to pay Marcellus Butler the sum of \$100 for services rendered the Committee on Invalid Pensions from March 5, 1901, to December 1, 1901, with a letter from the very distinguished and lovable chairman of the Committee on Invalid Pensions, stating that these services were rendered to the committee, and stating that it was near the close of the session and the Committee on Accounts were without a quorum, so that that committee could not act. Now, the fact is, the gentleman evidently was mistaken. This period of time was before the long session. The time commenced, not at the end of a term of Congress, but when there was no Committee on Invalid Pensions in existence. I do not know; perhaps the man rendered the services, but I think we ought to have a chance to consider it.

Mr. MILLER. Mr. Chairman, let me say to the gentleman from Illinois that this matter was presented to the Committee on Claims, accompanied by this letter, and in person the chairman of the Committee on Invalid Pensions [Mr. SULLOWAY] stated to the committee upon his honor as a Member of this House that this work was done by Mr. Butler for him and he had never been paid for doing the work, and, as it was a small sum, I felt, as chairman of the committee, and the committee also, that it ought to be paid.

Mr. MANN. I certainly would not question the word of the gentleman in charge of the Committee on Invalid Pensions. Here is the statement made by that gentleman:

The reason Mr. Butler did not receive pay for his services was that the resolution that went to the Committee on Accounts was not received by that committee in season to act and report thereon. It was near the close of the session and, as far as I remember, the committee was without a quorum.

Now, the fact is, that the time this man rendered the services was at the beginning of the Congress immediately after the sitting of Congress, immediately after the 4th of March, and it was during the interim when there was no Committee on Invalid Pensions, and the gentleman from New Hampshire is evidently mistaken as to the facts in the case. It may be that the man ought to be paid; I do not know.

Mr. MILLER. I think, Mr. Chairman, the gentleman from Illinois is right about it, but in the absence of the chairman of the Committee on Invalid Pensions, I do not like to have this passed over.

Mr. MANN. Well, it will be reached again.



The CHAIRMAN. Does the gentleman from Illinois object?

Mr. MANN. Oh, I am not objecting, but after calling attention to the matter if nobody else wishes to object I do not. Maybe the man rendered services, but he did not render services to the Committee on Invalid Pensions during that time.

Mr. CANDLER. He made it appear to the committee that this man rendered services or it would not have been favorably reported. The committee was thoroughly convinced that the services were rendered.

Mr. SABATH. What services, if any, did he render to the committee?

Mr. MILLER. As janitor to the committee, for which he was not paid, as was represented by the Committee on Invalid Pensions.

Mr. SABATH. Was the committee in session then?

Mr. MILLER. The clerks are required to be here even though Congress is not in session. The clerks were required to be here and were in charge of the room, and this man rendered services as janitor for that committee room. All the other janitors have been paid.

The bill was laid aside with a favorable recommendation.

T. C. WAKEFIELD.

The next business on the Private Calendar was the bill (H. R. 19653) for the relief of T. C. Wakefield.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to T. C. Wakefield the sum of \$18, for expenses incurred and services rendered in making the proper returns for the Salmon Lake voting precinct, Kougakok district, Alaska.

Mr. MANN. Mr. Chairman, I would like to ask some one, this being a bill for sending the election returns from one place to a central place, what provision is there in law for paying such expenses in the future and how is it expected to be paid? Is it to be paid by a claim every time?

Mr. CALE. I do not know as I can answer the legal phase that the gentleman inquires for, but I do know that the services are rendered, as the report will show. Just what the law is in relation to the matter I can not answer.

Mr. MANN. Here is a case where this Congress authorized an election to be held for the election of the gentleman who has the floor, and the polls are widely scattered, I suppose. A man says that it took him three or four days' time, more or less, to bring in the returns from one of the polls. Now, is there any provision in the law for the payment of the man for such purpose, and how is the party to be paid in the future?

Mr. CALE. In the same manner as this.

Mr. MANN. If I thought we were to have a claim every year or two years for \$18 or so, to waste the time of Congress, I should object. I think the gentleman ought to get busy and have a bill passed covering the case.

Mr. CALE. This is the first bill of that kind that has ever been before the House.

The bill was ordered to be laid aside with a favorable recommendation.

THOMAS J. SHOCKER.

The next business on the Private Calendar was the bill (H. R. 19893) for the relief of Thomas J. Shocker.

The bill was read, as follows:

*Be it enacted, etc.,* That Thomas J. Shocker shall hereafter be held and considered to be entitled to all of the rights and benefits that he would be entitled to on account of military service, except pay, bounty, and other emoluments, if he had been continuously in the military service of the United States as a private of Company B, Twelfth Regiment Ohio Volunteer Cavalry, from the 12th day of September, 1863, to the 1st day of July, 1865, and had been honorably discharged on the date last named herein.

Mr. PRINCE. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

Mr. MILLER. Mr. Chairman, I ask unanimous consent to strike out the second section.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to strike out the second section. The Clerk informs the Chair that there is but one section to the bill.

Mr. PRINCE. The bill that is now before the House for consideration is the bill H. R. 19893, Calendar No. 1003.

Mr. MILLER. That is all right. I have no objection to that.

The bill was ordered to be laid aside with a favorable recommendation.

HENRY A. TOLBERT.

The next business on the Private Calendar was the bill (H. R. 7048) for the relief of Henry A. Tolbert.

Mr. MACON. I object, Mr. Chairman.

CHARLES H. DUNNING.

The next business on the Private Calendar was the bill (H. R. 18487) for the relief of Charles H. Dunning.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Charles H. Dunning, late postmaster at Rome, N. Y., the sum of \$421.21, paid by him in settlement of his accounts with the Government to cover loss sustained by reason of the failure of the Fort Stanwix National Bank, of Rome, N. Y.

Mr. MILLER. Mr. Chairman, I move that it be laid aside with a favorable recommendation.

Mr. COX of Indiana. Why is the Government proposing to reimburse this man for the loss of money that he had placed on deposit in a bank? I gather that that is the purpose of it.

Mr. MILLER. Let me read the part of the report that refers to that.

Mr. MANN. The bank was a good institution, and he deposited the money there. The bank failed. I remember the case because it appealed to me, having been somewhat in a similar position once myself. The Government does not permit postmasters under the rules to deposit money in banks except national depositories. The Government exacts a bond. If a postmaster deposits money in a safe and the burglar breaks open the safe and gets the money, the Government is reimbursed.

Mr. COX of Indiana. Has that been the uniform policy of the Government?

Mr. MANN. That is the law.

Mr. STAFFORD. If the gentleman will permit me, that was the law until the last session of Congress, when a measure was passed authorizing postmasters to deposit postal funds in any state or national bank in addition to national depositories.

Mr. MANN. Now, in this town there was a national bank of good reputation, without any question in regard to its solvency. This postmaster—I think properly—thinking it was safer to keep the money in the bank than in his jeans or in his office, deposited it in the bank. Unfortunately for him, the bank failed, and the Government required him to put up the money that was on deposit in the bank. This is to reimburse him for that amount.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

Mr. COX of Indiana. I reserve the right to object. Is the law now that the postmaster can deposit money in national banks or keep it on his person, if he sees fit?

Mr. MANN. That is what the gentleman from Wisconsin states.

Mr. STAFFORD. The law formerly was that if he deposited it in any bank it must be a national depository.

Mr. COX of Indiana. Then prior to the last session of Congress the law was, as the gentleman from Illinois has stated, that the money must be deposited in some designated bank?

Mr. STAFFORD. The law provided that the postmaster must either deposit it in a depository or else keep it in a safe, or in some designated manner as he cares for his personal property, as presented by the regulations. But the Post-Office Committee recommended to the House, and there was ultimately carried in the appropriation bill a provision authorizing postmasters not only to deposit their funds in depositories, but in any national or state bank.

Mr. GILLESPIE. Without security?

Mr. STAFFORD. But the law still prescribed that the postmaster must give bond as formerly.

Mr. COX of Indiana. Now, just one question more. Suppose the postmaster keeps the money in his private safe and it is broken into by burglars. Is he responsible?

Mr. STAFFORD. The postmaster is not responsible. The Government will reimburse him for any funds taken from the safe if he shows that he has exercised reasonable care.

Mr. COX of Indiana. If he has not been guilty of negligence he will be reimbursed?

Mr. STAFFORD. Yes.

Mr. MANN. If he keeps a safe and keeps it locked.

Mr. MACON. Then, if I understand this case, the postmaster is guilty of a violation of the law if he puts the money in the bank. And now you are seeking to justify a man for a violation of the law by reimbursing him.

Mr. STAFFORD. He did not violate the law. He only took added precaution.

Mr. MACON. He violated the law; and for that reason I object.

Mr. MILLER. There was no violation of law. I do not believe the gentleman will object if he understands the facts in the case. There was no depository in which he could keep the money, and he did what every other sensible postmaster in the United States would have done under the circumstances, and is doing continually. He put the money in a substantial bank for the purpose of making it secure, rather than keep it upon his person or in his house. Had he kept it in his house or on

his person he would have been reimbursed for the loss, but having put it in a good substantial bank, now, then, he is asked by the Government of the United States to make it good, since that bank subsequently failed with the money in it.

Mr. COX of Indiana. Do I understand you to say that he deposited the money in a national bank?

Mr. MILLER. Yes.

Mr. DAVIS. Will the gentleman allow me to ask him just a question with reference to the circumstances, and with reference to this bill generally? If a postmaster deposited money prior to the last session of Congress in a national bank of good standing and the national bank failed, can he now be reimbursed under the law without a separate act of Congress?

Mr. MILLER. He can not be reimbursed without a separate act of Congress, unless he has deposited the money in a regularly designated depository.

Mr. DAVIS. This was not a depository, then, but simply an ordinary national bank?

Mr. MILLER. The bank failed, and he lost 75 per cent of the money. The dividends did not pay that amount.

Mr. DAVIS. Now, is the law such that he can be reimbursed without an independent act of Congress?

Mr. STAFFORD. The law now permits him to deposit the funds not only in national banks, but in state banks, and the law should have been corrected a long time ago, in the opinion of almost all the members of the Committee on Post-Offices and Post-Roads.

Mr. DAVIS. Suppose this deposit was made three years ago in a national bank. The bank failed and the postmaster has been required to reimburse the Treasury. Can he now be reimbursed under the existing law without an act of Congress?

Mr. STAFFORD. The law that was passed last year was not retroactive in its character. It merely provided for subsequent transactions. Of course, under the supposititious case presented by the gentleman, he would have to come to Congress with a private act.

Mr. MILLER. He has to present a separate bill.

Mr. DAVIS. Is the bill now under consideration for loss of funds deposited in a bank prior to the passage of this law?

Mr. MILLER. Yes. I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

#### OMAHA TRIBE OF INDIANS.

The next business was the bill (S. 2901) authorizing the Omaha tribe of Indians to submit claims to the Court of Claims.

Mr. MANN. I ask that that go over.

The CHAIRMAN. Objection is made. Under the rule, that order will be made.

#### HEIRS OF CORNPLANTER.

The next business was the bill (H. R. 16048) for the relief of the heirs of Cornplanter, alias John O'Bial or Abeel, a Seneca Indian chief.

Mr. MANN. Mr. Chairman, I ask that that bill go over.

Mr. HACKNEY. The bill has been covered by the omnibus Indian bill.

The CHAIRMAN. Under the rule, the bill will be laid aside, without prejudice.

Mr. MANN. It should be laid aside, with the recommendation that it lie on the table. A similar provision has become a law.

Mr. HACKNEY. It ought to be stricken from the calendar.

The CHAIRMAN. Does the gentleman from Illinois move that it be laid aside with a recommendation that it lie on the table?

Mr. MANN. I do.

The CHAIRMAN. The gentleman from Illinois moves that the bill be laid aside with the recommendation that it lie on the table.

The motion was agreed to.

#### JOHN W. WOOD.

The next business was the bill (H. R. 15603) for the relief of John W. Wood.

The bill was read, as follows:

*Be it enacted, etc.,* That John W. Wood, postmaster at Pasadena, Los Angeles County, Cal., be, and is hereby, released from all liability on account of stamps to the amount of \$13,000, stolen from his office on or about May 17, 1907, and the said sum of \$13,000 is hereby ordered credited to him on his accounts as such postmaster, and the payment to him of the balance due after allowing such credit is hereby authorized.

Mr. MANN. Nobody objects to this bill, I believe, but the postmaster for whose benefit the bill is passed asks that there be an appropriation made for the amount.

Mr. MILLER. I have no objection to accepting such an amendment.

Mr. MANN. There ought to be an amendment.

Mr. MILLER. I have no objection to the acceptance of an amendment providing for an appropriation if there is anything found due. This is for an adjustment of the account of the postmaster, to allow him credit for certain amounts. Then if there is anything found due him over and above that, there ought to be an appropriation to pay it. There is no question, on the merits of the bill, of his right to recover.

Mr. COX of Indiana. Is there another case of burglary?

Mr. MANN. One thousand three hundred dollars' worth of stamps were stolen.

Mr. MILLER. I move an amendment at the close of the bill providing an appropriation, out of any moneys in the Treasury not otherwise appropriated, for the payment of the balance found due.

The CHAIRMAN. The gentleman from Kansas offers an amendment which the Clerk will report.

The Clerk read as follows:

Insert at the end of the bill the following:

"And that there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to pay the amount, if any, found due said John W. Wood hereunder."

The amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

#### WILMERDING-LOEWE COMPANY, OF SAN FRANCISCO.

The next business was the bill (H. R. 19641) for the relief of the Wilmerding-Loewe Company, of San Francisco, Cal.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to refund to the Wilmerding-Loewe Company, of San Francisco, Cal., out of any money in the Treasury not otherwise appropriated, the sum of \$249.81, the same being the amount of money deposited with the collector of internal revenue for the first district of California by the said Wilmerding-Loewe Company for the purchase of five tax-paid spirit stamps to denote the payment of the internal-revenue tax on five packages of spirits then deposited in special bonded warehouse No. 6, at San Francisco, Cal., which spirits were the property of the said Wilmerding-Loewe Company and were totally destroyed by fire on April 18, 1906, before the delivery of the said stamps.

Mr. MILLER. I move that the words "before the delivery of the said stamps" be stricken out. They are not necessary there.

The CHAIRMAN. The gentleman from Kansas offers the following amendment, which the Clerk will report.

The Clerk read as follows:

On page 2 strike out the words "before the delivery of the said stamps."

The amendment was agreed to.

The bill as amended was ordered to be laid aside to be reported to the House with a favorable recommendation.

#### C. W. REID AND SAM DAUBE.

The next business on the Private Calendar was the bill (H. R. 4562) for the relief of C. W. Reid and Sam Daube.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, directed to refund to C. W. Reid and Sam Daube the sum of \$688.24, said sum having been paid by them as sureties on the forfeited bail bond of J. F. Newcomb in the case of the United States of America against J. F. Newcomb, heretofore pending in the United States court for the eastern district of Texas, at Paris, Tex., on final judgment rendered after said J. F. Newcomb, the principal in said bond, had been apprehended through the information and assistance of the said C. W. Reid and Sam Daube and after he had been convicted in said court upon the charge of incest, the offense for which he was under bond to appear in said case of the United States of America against J. F. Newcomb, the said sum of \$688.24 being the amount left after deducting from the total amount of said bail bond the expense incurred by the Government in apprehending Newcomb, less the sum of \$125 advanced by Reid and Daube to aid the recapture.

The bill was ordered to be laid aside with a favorable recommendation.

#### ANNA B. MOORE.

The next business on the Private Calendar was the bill (S. 1751) to reimburse Anna B. Moore, late postmaster at Rhyolite, Nev., for money expended for clerical assistance.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Anna B. Moore, late postmaster at Rhyolite, Nev., out of any money in the Treasury not otherwise appropriated, the sum of \$1,092, to reimburse her for money expended for necessary clerical assistance.

The bill was ordered to be laid aside with a favorable recommendation.

#### WILLARD W. ALT.

The next business on the Private Calendar was the bill (H. R. 11039) for the relief of Willard W. Alt, of Hyannis, Nebr.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the accounting officers of the Treasury be, and they are hereby, authorized to pay, out of any money not otherwise appropriated, to Willard W. Alt the sum of \$490 for surveys made of public lands in the State of Nebraska, in accordance with specific instructions of the Government under his contract with the Government



therefor, dated May 26, 1900, and May 9, 1901, authorized by acts of Congress approved March 1, 1899, and January 14, 1901, respectively.

The following committee amendments were read:

Line 5, strike out the word "four" and insert in place thereof the word "three."

Line 6, strike out the word "ninety" and insert in place thereof the word "sixty-five."

Lines 9 and 10, strike out the words "and May 9, 1901."

Line 10, strike out the word "acts" and insert in place thereof the word "act."

Lines 12 and 13, strike out the words "and January 14, 1901, respectively."

Mr. MANN. Mr. Chairman, there seems to be three bills for this man now pending. He was a surveyor under a contract. I would like to ask the gentleman from Nebraska whether it is not possible for the Government to make a contract for a survey in Nebraska without having a bill brought in for extra services. Here are three bills pending before one Congress by one surveyor.

Mr. KINKAID. I will say to the gentleman that it is possible, but they did not do so in this case; and this resurvey was done on the express written instructions of the department.

Mr. MANN. I think this case is made out in this particular bill. It looks very satisfactory, but he has three bills pending. Can not they make a contract out there without having extra services for the surveyor? This man seems to be very lively when he can bring in three separate bills before one Congress to get extra services.

Mr. KINKAID. We put it all into one bill, but the department required us to divide it.

Mr. MONDELL. Mr. Chairman, I think there is no question but what the department ought to submit these cases in the form of estimates and ask for appropriations, but they have not done it, or at least in some cases they have not. I had a number of cases of this kind, and years ago I finally succeeded in getting the department to adopt, as far as my State is concerned, the policy of submitting them in the form of estimates, and they were paid in that form. That ought to be done in every case. I think they are clearly legitimate expenditures, and yet they are beyond the contracts. For instance, in a contract for the survey of a township they assume that it will cost a certain sum, and when the surveyor reaches the last 3 or 4 miles he finds that it costs a great deal more.

The committee amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CORNELIUS VAN COTT.

The next bill on the Private Calendar was the bill (H. R. 15218) for the relief of the sureties on the official bond of Cornelius Van Cott.

The bill was read, as follows:

*Be it enacted, etc.,* That the estate of Cornelius Van Cott, late postmaster of the city of New York, and the sureties on his bond be relieved from the payment to the United States of America of the sum of \$1,285.71, the amount paid H. Clayton Graff during the fourth quarter of the year 1902 and the first and second quarters of the year 1903, who was carried on the pay rolls at the New York City post-office for said period.

Mr. FINLEY. I would like to ask for an explanation of this bill.

Mr. MILLER. I will yield to the gentleman from New York [Mr. BENNET].

Mr. BENNET of New York. Mr. Chairman, the explanation is this: The department here in Washington sent this man Graff to New York with instructions to the postmaster there to put him to work at certain work. He had no option in the matter at all. He did put him at work, and his salary, instead of being paid from the departmental sources here, was paid from funds of the New York City post-office. After Mr. Van Cott died the auditor determined that the salary was not rightfully paid from the New York City end, and the sureties were obliged to pay \$1,200.

Mr. MANN. The gentleman from New York is slightly in error as to the facts. Instead of sending the clerk from here to New York they took a clerk on the rolls of New York and ordered him to report here for some special work, and he was carried on the rolls at New York, working in Washington upon special work upon which he was an expert. Because he was here the auditor disallowed the pay roll as far as New York was concerned, and the sureties on the bond of the New York postmaster were obliged to pay.

Mr. BENNET of New York. The fact is he was ordered on the roll by the department.

Mr. MANN. He was ordered here on expert work concerning stamping machines because he was an expert. He was not paid by the department in Washington; he was paid by the postmas-

ter of New York City. There is no question but that he rendered the service.

The bill was ordered to be laid aside with a favorable recommendation.

STEAM LIGHTER "CLIMAX."

The next business was the bill (S. 2873) for the relief of the owners of the steam lighter *Climax* and the cargo laden aboard thereof.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the claims of the owners of the steam lighter *Climax*, injured and sunk by collision with the U. S. light-house tender *Cactus* on the afternoon of the 25th day of November, 1905, in the East River, off the borough of Manhattan, city of New York, State of New York, for and on account of the loss and injury to the said vessel and cargo and damages to the owners thereof, may be submitted to the United States district court for the southern district of New York, under and in compliance with the rules of the said court sitting as a court of admiralty, and said court shall have jurisdiction to hear and determine and to render judgment thereupon upon the same principles and measures of liability and damages in like cases in admiralty: *Provided, however,* That the investigation of the said claim shall be made upon the following basis:

First. The said court shall find the facts attending the loss and injury to the said steam lighter *Climax* and her cargo and damages to the owners thereof.

Second. If it shall appear that the responsibility therefor rests with the said U. S. light-house tender *Cactus* the court shall then ascertain and determine the amounts which should be paid to the owners, respectively, of the *Climax*, and of her cargo, in order to reimburse them for the losses and damages so sustained, and shall render a decree accordingly.

SEC. 2. That should said decree be rendered in favor of the owners of the *Climax* and her cargo, the amount thereof may be paid out of any money in the Treasury not otherwise appropriated.

The bill was ordered to be laid aside with a favorable recommendation.

SAMUEL GARLAND.

The next business was the bill (H. R. 2245) authorizing the Court of Claims to hear and adjudicate the claims against the Choctaw Nation of Samuel Garland, deceased.

Mr. MANN. Mr. Chairman, I object to that and ask that the bill go over.

The bill was ordered to be passed without prejudice.

THEODORE F. NORTHROP.

The next business was the bill (S. 2253) for the relief of Theodore F. Northrop.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That Theodore F. Northrop, late first lieutenant, Second Regiment New York Cavalry Volunteers, shall be held and considered to have been a captain of cavalry, in command of scouts in the army of General Sherman, from September 10, 1864, to May 22, 1865; and the Secretary of War is authorized to issue to said Northrop a certificate of such service and of honorable discharge in accordance with this act: *Provided,* That no pay, bounty, or other allowance shall become due and payable by reason of this act.

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That Theodore F. Northrop, late first lieutenant, Second Regiment New York Cavalry Volunteers, and who commanded a body of mounted military scouts in the army of General Sherman from January 3, 1865, to March 31, 1865, shall be held and considered to have been an officer of the Volunteer Army during that time, for the purpose of an application for a medal of honor: *Provided,* That no pay, bounty, or other allowance shall become due or payable by virtue of this act."

Mr. MANN. Mr. Chairman, I shall have to ask that that be laid over.

Mr. PARKER. Mr. Chairman, will the gentleman reserve his objection until he can hear an explanation?

Mr. MANN. I reserve the right to object.

Mr. PARKER. Mr. Chairman, I will state that Northrop served for three years. He then was mustered out and took command of a company of military scouts, and showed himself to be of great bravery and gallantry at that time in the march to the sea, going down from Atlanta. He wants a medal of honor.

Mr. MANN. I am satisfied with the explanation.

Mr. PARKER. Then I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on agreeing to the committee amendment.

The question was taken, and the committee amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

BENJAMIN C. WELCH.

The next business was the bill (S. 5388) for the relief of Benjamin C. Welch.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That in the administration of the pension laws the authorization of the Secretary of War of May 7, 1863, permitting Benjamin C. Welch, formerly first lieutenant Company B, Fortieth New York Volunteers, to reenter the service shall be held and considered as an honorable discharge from his service with that command.

Mr. MANN. I shall have to ask that that go over.

Mr. CAPRON. Does the gentleman from Illinois understand the bill to which he has just objected?

Mr. MANN. I may be mistaken, but I understand the department is not friendly to this. I will reserve the right to object.

Mr. CAPRON. Mr. Chairman, this bill ought to pass. In a few words one can state the case. This man took charge of the body of another officer of his company and went to Aquia Creek, expecting a minister of his church at home to come and take the body home for burial. There was no one there to take it. The man had his pass to Aquia Creek. He reached Boston and went home with the remains. He came back to the army and was dismissed the service for this cause. When the attention of the Secretary of War was called to this, he said that in view of the mitigating circumstances, although this man had passed out without leave, the governor of his State or any State might recommission the man and he would be accepted in the army. There was no vacancy, and the man reenlisted as a private soldier and served throughout the war and was honorably discharged. That five or six days' absence without leave is all there is against the soldier with a remarkably honorable record. He now simply desires that that be corrected and cleared up. I will agree that the circumstances warranted his dismissal under the war conditions then existing.

Mr. MANN. I shall not object.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID ROBERTSON.

The next business was the bill (H. R. 5808) placing David Robertson on the retired list of the United States Army.

Mr. MANN. Mr. Chairman, I shall object to that and ask to have it go over.

The bill was ordered to be passed without prejudice.

R. J. B. NEWCOMBE.

The next business was the bill (H. R. 8558) for the relief of R. J. B. Newcomb.

The Clerk read the bill as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to R. J. B. Newcomb, his representatives or assigns, the sum of \$1,500, out of any money in the Treasury not otherwise appropriated, the same to be for loss sustained in constructing wharf and boathouse at the life-saving station on South Manitou Island, Michigan.

With the following amendments:

Line 4, strike out the word "Newcomb" and insert in lieu thereof the word "Newcombe."

In lines 5 and 6 strike out the words "one thousand five hundred dollars" and insert in lieu thereof the words "nine hundred and sixty dollars and four cents."

The CHAIRMAN. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

Without objection, the title was amended so as to read:

A bill for the relief of R. J. B. Newcombe.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE M. VOORHEES.

The next business was the bill (H. R. 17572) for the relief of George M. Voorhees.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of War be, and he is hereby, authorized and instructed to interpret and consider Special Orders, No. 59, date February 5, 1863, approved February 10, 1863, equivalent to the honorable discharge of George M. Voorhees, late captain Company D, Ninety-third Regiment New York Volunteer Infantry; *Provided*, That no pay, bounty, or other emoluments shall become due or payable by virtue of the passage of this act.

Mr. PRINCE. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The bill was ordered to be laid aside with a favorable recommendation.

CHARLES ENGSTROM AND C. PETERSEN.

The next business on the Private Calendar was the bill (H. R. 19757) for the relief of Charles Engstrom and C. Petersen.

Mr. MANN. Mr. Chairman, I ask that that bill go over; I object.

The CHAIRMAN. Objection is made.

Mr. CALE. I hope the gentleman from Illinois will not object.

The CHAIRMAN. Does the gentleman from Illinois reserve the right to object, or object?

Mr. MANN. I have no objection to reserving it.

Mr. CALE. This bill, as the report shows these gentlemen have been out of their money for eight or nine years—

Mr. MANN. But I propose to discuss the bill before it is passed, I will say to the gentleman.

Mr. MILLER. Mr. Chairman, then I will ask to have it passed over without prejudice.

The CHAIRMAN. Objection is made, and under the rules the bill will be passed without prejudice.

SENECA NATION OF INDIANS.

The next business on the Private Calendar was the bill (H. R. 19746) to ratify a certain lease with the Seneca Nation of Indians.

Mr. MANN. Mr. Chairman, I ask that that go over.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

HEIRS OF MYRA CLARK GAINES.

The next business on the Private Calendar was the bill (H. R. 6648) for the relief of the heirs of Myra Clark Gaines, deceased.

Mr. MANN. Mr. Chairman, I ask that that go over.

Mr. MONDELL. Mr. Chairman, I ask that that be passed without prejudice.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

GEORGE W. BLACK AND J. R. WILSON.

The next business on the Private Calendar was the bill (H. R. 4166) to relieve George W. Black and J. R. Wilson from a certain judgment in favor of the United States and to relieve George W. Black, J. R. Wilson, and W. M. Newell of a certain judgment in favor of the United States.

The bill was read, as follows:

*Be it enacted, etc.,* That George W. Black and J. R. Wilson be, and they are hereby, relieved and discharged of and from all liability on account of the judgment rendered against them as sureties on the forfeited recognizance or bail bond where B. H. Gallway is principal, which judgment was rendered in the United States district court for the middle district of Alabama on May 28, 1891, for \$200 and the costs, \$26.40; and that George W. Black, J. R. Wilson, and W. M. Newell be, and they are hereby, relieved and discharged of and from all liability on account of the judgment rendered against them as sureties on the forfeited recognizance or bail bond where J. R. Wilson is principal, which judgment was rendered in the United States district court for the middle district of Alabama on December 12, 1892, for \$150 and the costs, \$26.40; and that the said judgments shall be canceled and marked satisfied on the records of said court by the United States attorney for the middle district of Alabama.

Mr. CLAYTON. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

F. S. JETTE & SON.

The next business on the Private Calendar was the bill (H. R. 2911) for the relief of F. S. Jette & Son, of Savannah, Chatham County, Ga., for damage done to their wharf by U. S. dredge *Cumberland*.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to F. S. Jette & Son, of Chatham County, Ga., the sum of \$70 for money expended and labor performed in repairing damages done to their wharf at Savannah, Chatham County, Ga., by the U. S. dredge *Cumberland* on May 24, 1906.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection?

Mr. EDWARDS of Georgia. Mr. Chairman, this is my bill and I noticed the Clerk read it J. S. Jette. It should be F. S. Jette.

Mr. MILLER. It is F. S. Jette.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation. [After a pause.] The Chair hears none.

BRIDGEPORT NATIONAL BANK.

The next business on the Private Calendar was the bill (H. R. 13644) for the relief of the Bridgeport National Bank, Bridgeport, Ohio.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to redeem, in favor of the Bridgeport National Bank, Bridgeport, Ohio, United States 5 per cent coupon bond, issued under the act of January 14, 1875, No. 19649, for \$1,000, with interest from February 1, 1899, to the date of the maturity of said bond: *Provided*, That the said Bridgeport National Bank shall first file in the Treasury a bond in the penal sum of double the amount of the principal of said bond and the interest due thereon, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any loss on account of the said bond and the said interest.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.



GEORGE H. TRACY.

The next business on the Private Calendar was the bill (H. R. 20171), to correct the military record of George H. Tracy.

The amendment in the nature of a substitute was read, as follows:

*Be it enacted, etc.,* That George H. Tracy, late captain Company I, Thirty-third Regiment Missouri Volunteer Infantry, shall be held and considered to have been honorably discharged from the service of the United States by Special Orders, No. 24, Department and Army of the Tennessee, dated March 4, 1865, and said order shall be held in force, and Special Orders of the War Department No. 102, dated March 1, 1865, dishonorably dismissing said Tracy, shall be held revoked.

Mr. PARKER. Mr. Chairman, in this case Captain Tracy has an honorable discharge dated March 4, 1865. It is based on a surgeon's certificate of disability, he having been in the hospital for three months. He did not find out until 1907 that he had been dishonorably dismissed by another discharge dated March 1, 1865, which was based on the report of his colonel made before he went into the hospital, when he thought that he was shamming to try to escape from duty. The colonel joins in an affidavit saying that he made a mistake. I can give all the dates that run back to September, 1864, if desired. I move that the bill be laid aside with a favorable recommendation.

The question was taken, and the amendment in the nature of a substitute was agreed to.

The bill was then ordered to be laid aside with a favorable recommendation.

JULIUS A. KAISER.

The next business on the Private Calendar was the bill (H. R. 12707) for the relief of Julius A. Kaiser.

Mr. MANN. I ask that that bill go over.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

S. R. GREEN.

The next business on the Private Calendar was the bill (S. 213) for the relief of S. R. Green.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, directed to pay to S. R. Green, of Clackamas County, Oreg., the sum of \$85, the same being the amount deposited by said S. R. Green in the names of James Tracy and S. R. Green in the First National Bank of Portland, Oreg., on September 1, 1897, to the credit of the United States Treasurer, for office fees in connection with the survey of the Della, Lone Grave, Idle Fancy, and Cyclone quartz-mining claims in Lane County, Oreg., which survey was duly abandoned, and although a demand made for the return of said \$85 so deposited as aforesaid, said sum was covered into the Treasury of the United States.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none, and it is so ordered.

JOHN S. HIGGINS.

The next business on the Private Calendar was the bill (S. 879), for the relief of John S. Higgins, paymaster, United States Navy.

The bill was read as follows:

*Be it enacted, etc.,* That the proper accounting officers in settling and adjusting the accounts of John S. Higgins, paymaster, United States Navy, are hereby directed to credit in his account said John S. Higgins with the sum of \$1,047.14, which amount of government funds he paid to Mr. Stephen J. Harvey, paymaster's clerk, United States Navy, for duty performed under orders of the Secretary of the Navy at Pensacola (Fla.) Navy-Yard, from November, 1905, to September, 1906, under Paymaster F. G. Pyne, U. S. Navy.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

CHICAGO, PEORIA AND ST. LOUIS RAILWAY COMPANY.

The next business on the Private Calendar was the bill (S. 60), for the relief of the Chicago, Peoria and St. Louis Railway Company.

Mr. MACON. Mr. Chairman, I object to the present consideration of the bill.

NIELS P. LARSEN.

The next business on the Private Calendar was the bill (H. R. 8734) for the relief of Niels P. Larsen.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$148 to Niels P. Larsen, postmaster at Otto, Wyo., to reimburse him for postal funds lost by fire while being transported to a government depository.

Mr. MANN. There is a distinction between postal funds and money-order funds, and what were lost were money-order funds, as shown by the report.

Mr. MILLER. I have no objection to that change being made.

The CHAIRMAN. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the word "postal," in line 7, and insert the words "money order."

The CHAIRMAN. The question is on agreeing to the amendment.

The question was taken, and the amendment was agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

LANDS IN BOISE, IDAHO.

The next business on the Private Calendar was the bill (S. 6136), authorizing the Secretary of War to issue patents to certain lands in Boise, Idaho.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of War be, and he is hereby, authorized and directed to issue patent in fee to Boise City, a municipal corporation, to that tract of land lying within the boundaries of the United States military reservation at Boise City, Ada County, Idaho, and bounded and described as follows:

Beginning at a stone marking the southwest boundary of the United States military reservation, thence north 22° 12' west 2,719.86 feet; thence north 20° west 351.84 feet; thence north 70° east 15.5 feet to a line 22 feet from the center of the Capital Water Company's ditch; thence in an easterly direction following a line 22 feet from the center line of said ditch and parallel to the same to the intersection with said line of the southeasterly boundary of the reservation; thence south 70° west to the point of beginning, subject to any rights of the Capital Water Company for the use of said grounds as a right of way or an easement to convey water.

Also the following amendments:

Strike out in line 4, page 1, the words "and directed to issue patent in fee to" and insert in lieu thereof the following: "to make a license, revocable at his discretion, for the use for park purposes by."

Amend the title so as to read:

"An act authorizing the Secretary of War to grant a revocable license to certain lands to Boise, Idaho."

Mr. CANDLER. I will ask if that bill was not passed by unanimous consent two or three days ago?

Mr. MANN. Which bill was that—the Boise bill?

Mr. CANDLER. Yes.

Mr. MANN. It was called up by unanimous consent, Mr. Chairman, and objection was made because it was on the Private Calendar, although it is in the nature of a public bill. There was no objection to it the other day except for that reason.

Mr. CANDLER. I ask that the bill be laid aside, Mr. Chairman, with a favorable recommendation.

The CHAIRMAN. The question is on agreeing to the amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JOHN SHULL.

The next business on the Private Calendar was the bill (H. R. 4286) for the relief of John Shull.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury is hereby authorized and directed to pay to John Shull, of Perry County, State of Pennsylvania, the sum of \$300, out of any money in the Treasury not otherwise appropriated, in payment for timber cut and used by the United States Topographical Survey in building and construction of a tower on the summit of the Tuscarora Mountain, in the State of Pennsylvania, for the use of the Government of the United States, in the year 1904.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

Mr. MANN. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Kansas yield to the gentleman from Illinois?

Mr. MILLER. Yes.

Mr. MANN. This bill is to pay for timber cut by a topographic survey party and used in connection with their surveying work. I would like to ask any gentlemen of the House whether there is any provision in the law, or, if not, what the custom is where a topographic survey party goes upon timber lands, or where they need timber, in reference to cutting it? I think a good claim is made out here, absolutely unobjectionable, but I think there should be some provision governing a case like this.

Mr. MILLER. Mr. Chairman, I am not able to answer the question of the gentleman from Illinois. I will say, however, when this matter came before the committee the parties notified the committee that these officers of the United States government told them that they had authority to cut down any timber that they wanted to cut, and the owner of the timber would have to make his claim against the Government of the United States, and any reasonable claim that was made would be paid. They went on and cut the timber. The party is here now, and

he proved conclusively before the committee that his timber was of the value that is stated in this report.

Mr. MANN. It seems to me a remarkable proposition that the Geological Survey officials should go ahead and make this statement as to cutting timber, or cut timber at all, without any authority to pay for it, unless there is some provision of law covering the case.

Mr. CANDLER. The department have recommended the payment of the investigation made by them.

Mr. NORRIS. Do they admit cutting the timber?

Mr. CANDLER. Oh, yes; and the recommendation is made in accordance with the facts.

Mr. MANN. We have topographical survey parties all over the United States, and it is ridiculous to say that this is the only time such a question has arisen.

Mr. CANDLER. It is the only claim that has been presented.

Mr. MANN. I would like to have some one on the Committee on Public Lands or otherwise familiar with such cases to state how they authorize it.

Mr. CANDLER. They got permission from some people who owned the land and went across the line where they had not any permission.

The amendment recommended by the committee was agreed to.

Mr. MILLER. I move that the bill be laid aside with a favorable recommendation.

The bill as amended was ordered to be laid aside with a favorable recommendation.

CHARLES LENNIG & CO.

The next business on the Private Calendar was the bill (H. R. 9755) for the relief of Charles Lennig & Co.

The bill was read, as follows:

*Be it enacted, etc.,* That the sum of \$1,702.20 is hereby appropriated out of any money in the Treasury not otherwise appropriated, to reimburse Charles Lennig & Co., Philadelphia, Pa., for damage to their works, due to the accidental explosion on August 6, 1902, of a quantity of cartridges at Frankford Arsenal, Philadelphia, Pa.

Mr. COX of Indiana. I would like to have some information with reference to that bill. How was this injury brought about, and how was the explosion caused?

Mr. MILLER. Probably I can give the gentleman the information better by reading some parts of the report than by a brief explanation that could be made of it.

On August 6, 1902, an accident occurred at Frankford Arsenal, Philadelphia, Pa., causing the explosion of about 100,000 caliber .45 black-powder cartridges.

The arsenal had been engaged in breaking up condemned ammunition, and at this particular time the force was working on condemned caliber .45 ammunition loaded with black powder. The bullets were drawn from the cartridges in a building on the arsenal grounds, packing the shells containing the powder in empty boxes, and conveyed from this building to a point as remote as possible from other buildings and destroyed by placing the cartridges in 1,000 lots in a wire cage and setting fire to them by a slow match, the cage being used to prevent the dispersion of the shells by the explosion of the powder. Some days before the explosion in question the only cage on hand was worn out, and during the time to repair it more than the usual quantity of cartridges with drawn bullets were accumulated. Rather than run the risk of keeping these in the buildings, the foreman carried them to a place in the open near the location of the cage and there stacked them, awaiting the completion of the cage. About 100,000 rounds of cartridges had been accumulated. In the same open place it was the practice to haul daily to a dumping ground all refuse material, consisting of paper, shavings, and other combustibles, and burn it, under the supervision of a man specially detailed to watch it until the material is burned. On the afternoon of August 6 several loads of this material had been dumped at the usual place, but the fire that afternoon was not lighted, and no evidence of a fire on the dump was noticed by the teamster, but there must have been a fire smoldering under the ashes.

About 4 o'clock of that day a thunderstorm, accompanied by high winds, came up very suddenly. The wind blew the smoldering flames into action, lighted the pile of refuse material, and, as it happened to be blowing directly from this material toward the shells, an ignition of the latter was caused by burning fragments blown into them. An explosion resulted, destroying the entire lot of 100,000 cartridges, estimated to contain about 1,000 pounds of black powder. The effect of the explosion was to produce a crater in the ground of about 8 feet in diameter and 4 feet in depth. No material damage was done to the government buildings, as the strong wind blowing at the time was from the arsenal buildings and tended to protect them from the shock. Directly across the Frankford Creek from the spot where the explosion took place was the Tacony Chemical Works, owned and operated by Charles Lennig & Co.

A board of officers, appointed by the commanding officer, Maj. Frank Heath, found that the damages caused to the works of Charles Lennig & Co. by the explosion was \$1,702.20. This amount was recommended to be paid by Brigadier-General Crozier, Chief of Ordnance, and Hon. Elihu Root, at that time Secretary of War. The committee believe that this amount should be paid to Charles Lennig & Co.

Mr. COX of Indiana. Just one question as to whether or not the proof showed that this explosion was the fault or negligence on the part of any Government employees.

Mr. MILLER. There was no negligence on the part of anyone. Everybody who knew the facts agreed that there was no negligence.

The bill was ordered to be laid aside with a favorable recommendation.

JAMES H. DE COSTER.

The next business on the Private Calendar was the bill (H. R. 5728) for the relief of James H. De Coster.

The bill was read.

Mr. MANN. I ask to have that go over.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

DAMAGE SUSTAINED NEAR FRANKFORD ARSENAL.

The next business on the Private Calendar was the bill (H. R. 12512) for the relief of persons who sustained damage by explosion near Frankford Arsenal, Philadelphia.

The bill was read, as follows:

*Be it enacted, etc.,* That the sum of \$10,348.55, being the sum found just by a board of officers convened at Frankford Arsenal on February 6, 1903, under post orders No. 4, issued by order of Maj. (now Lieut. Col.) Frank Heath, commanding officer of Frankford Arsenal, which sum is recommended by him, with the concurrence of the Secretary of War, be, and the same is hereby, appropriated to pay the awards of said board according to the following schedule, as set forth in the said report of the board dated May 15, 1903, to wit: Mrs. Mary Altemus, \$5.70; Mrs. Edward P. Ludy, \$1; Mrs. Catherine Keely, \$33.99; Mrs. Ella M. Newberry, \$6; Mrs. Fannie K. Webster, \$193.88; Mrs. Annie B. Hall, \$576.46; Mr. E. F. Cooper, \$163.20; Mr. Thomas McGee, \$87.30; Mr. David Clark, \$123.84; Mr. Oren N. Hillegas, \$100.75; Mr. James Chatterton, \$191.28; Mr. Charles H. Himmelwright, \$85.38; Mrs. Dollie E. Banes, \$40.85; Mrs. Pauline Voltz, \$66.14; Mr. Charles Hanksterfer, \$67; Mr. Anton Steeb, \$51.92; Mr. William E. Hillegas, \$3.80; Mr. Frank McMillan, \$1.50; Mr. William E. McMillan, \$19.06; Mr. Marshall W. Gold, \$25.75; Mrs. Mary Hafer, \$3.75; Mrs. Annie B. Hall (whose daughter, Ida W. Hall, aged 12 years, was struck by two small pieces of fuse, one piece penetrating cheek and striking tongue, the other penetrating leg), \$1,000; Mrs. Peter McColgan (whose husband, Peter McColgan, aged 35 years, an Ordnance Department teamster, was instantly killed by the explosion of the fuses), \$7,500.

Sec. 2. That the sum of \$202.75, being the sum recommended by Lieut. Col. Frank Heath, commanding officer of Frankford Arsenal, and concurred in by the Secretary of War, be, and the same is hereby, appropriated to pay Miss Lena Foster, on account of injuries and damages sustained by reason of an explosion at Frankford Arsenal on the 12th day of August, 1903.

The amendments recommended by the committee were read, as follows:

Lines 3 and 4, page 1, strike out the words "ten thousand three hundred and forty-eight dollars and fifty-five cents" and insert in place thereof the words "one thousand eight hundred and forty-eight dollars and fifty-five cents."

Page 1, at the end of line 11, insert the following words: "For damages to property."

Page 1, strike out all after the words "to wit," in line 14.

Page 1, strike out all of line 15 and all of page 2 and insert in the place thereof the following:

"Mary Altemus, \$5.70; E. F. Cooper, \$163.20; David Clark, \$123.84; James Chatterton, \$191.28; Marshall W. Gold, \$25.75; Annie B. Hall, \$576.46; Oren N. Hillegas, \$100.75; Charles H. Himmelwright, \$85.38; Charles Hanksterfer, \$67; William E. Hillegas, \$3.80; Mary Hafer, \$3.75; Catherine Keely, \$33.99; Edward P. Ludy, \$1; Thomas McGee, \$87.30; Frank McMillan, \$1.50; William E. McMillan, \$19.06; Ella M. Newberry, \$6; Dollie E. Banes, \$40.85; Anton Steeb, \$51.92; Pauline Voltz, \$66.14; Fannie K. Webster, \$193.88."

Strike out all of page 3 and insert in lieu thereof the following:

"Sec. 2. That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay, out of any moneys in the United States Treasury not otherwise appropriated, the sum of \$1,848.55 in settlement of the above claims."

Mr. MANN. Mr. Chairman, I do not propose to object to the bill, but I wish to discuss it for a few minutes. I will only take a few moments. You will get to all the other claims.

Mr. MACON. I reserve the right to object, Mr. Chairman.

Mr. MILLER. Mr. Chairman, if there is any question of objection to be raised, let it be made now.

Mr. MACON. The gentleman may explain it so that I will not object.

Mr. FOULKROD. I think I can explain the bill so that the gentleman will not object.

Mr. MANN. Mr. Chairman, I am not against the bill. The bill as originally introduced contained \$7,500 for the death of a person in the government employ. I give the Committee on Claims credit for a great many of its acts, and I give it special credit in this case for striking out that provision of the bill. But I believe that the Committee on Claims did not have as much information as to the recommendations of the War Department as I perhaps can give it now. The Chief of Ordnance in making his recommendation stated that—

There are precedents for the action of Congress in case of accident such as this, for which relief legislation is recommended as follows:

"By joint resolution, approved June 18, 1902, \$15,842.22 were appropriated for the relief of persons who sustained damage to property by the explosion of an ammunition chest in Chicago on July 16, 1894."

And Judge-Advocate-General Davis, a man of great care and experience, in his report on the bill made this statement:

On July 16, 1894, while Battery F, Second U. S. Artillery, was being actively employed in protecting property in the city of Chicago, Ill., an ammunition chest exploded. As a consequence of the explosion several enlisted men were killed and several persons, among them one civilian, were injured, and considerable injury was caused to buildings in the immediate vicinity. The amount of damage was ascertained by a board of officers convened for that purpose by the commanding general of the Department of the Missouri (see S. Ex. Doc. No. 21, 3d sess. 53d Cong.),



and amounts representing the damage caused to buildings in the vicinity of the explosion were made the subject of legislative appropriation in the following enactment, which included a gratuity to Alice York for personal injuries to the extent of \$305.

In the enactments cited it appears that some amounts, dependent upon the nature and extent of bodily injuries received, were paid to the persons injured.

Now, the whole basis of the claim for paying personal injuries, as recommended by the War Department, as an examination of the original bill discloses, was based upon the report and the law which followed it relating to the ammunition-chest explosion in Chicago in 1894. But, so far from that being the fact, the board appointed by the War Department at the time expressly refused to allow even loss of time. The Judge-Advocate-General refers to the case of Alice York, in which case there were \$305 allowed and paid. Doctor's expenses and nurse expenses were claimed, and they struck out these items; six weeks' loss of time, \$25.

The War Department board, so far from being a precedent for paying these personal injuries, as has been said, have established a precedent directly to the contrary. Neither the House nor the War Department itself at the time would recommend payment for medicines or for any loss of time. It only illustrates how these things grow up, however. Here was a claim where the matter had been raised and rejected, covering an expense of three or four hundred dollars, and a few years later we have the War Department recommending to the Committee on Claims, grounded upon this so-called "precedent," the payment of \$7,500 for injuries, which, if allowed, would have created a precedent. I congratulate the committee that it was wise and keen enough to refuse to recommend it.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill as amended was ordered to be laid aside, to be reported to the House with a favorable recommendation.

#### MERCHANTS' NATIONAL BANK, POUGHKEEPSIE, N. Y.

The next business was the bill (H. R. 14236) for the relief of the Merchants' National Bank, of Poughkeepsie, N. Y.

Mr. MACON. Mr. Chairman, I object to that bill.

The CHAIRMAN. The gentleman from Arkansas objects. The bill will be passed without prejudice.

#### BENJAMIN F. CURRY.

The next business was the bill (H. R. 17171) for the relief of Benjamin F. Curry.

Mr. MANN. I ask to have that go over.

The CHAIRMAN. The gentleman from Illinois objects. The bill will be passed without prejudice.

#### AGNES M. HARRISON.

The next business was the bill (H. R. 21019) to reimburse Agnes M. Harrison, postmaster at Wheeler, Miss., for loss of money-order remittance.

The bill was read, as follows:

*Be it enacted, etc.,* That there be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the reimbursement of Agnes M. Harrison, postmaster at Wheeler, in the State of Mississippi, for money-order remittance lost in transit November 12, 1907, without fault on her part, the sum of \$56.

Mr. CANDLER. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

#### ADOLPHUS ERWIN WELLS.

The next business was the bill (H. R. 10752) to complete the military record of Adolphus Erwin Wells.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of War is hereby authorized and directed to muster Adolphus Erwin Wells, of North Carolina, as of Company E, Ninth Regiment Tennessee Cavalry, said muster to date from the 16th of June, 1864, and to issue to said Adolphus Erwin Wells an honorable discharge from said service, to date from the mustering out of said regiment.

Mr. MANN. Mr. Chairman, there is no report on the bill.

Mr. GORDON. Oh, yes; there is.

Mr. MANN. I have the report that is here. I am perfectly willing that the gentleman should explain it. There is absolutely nothing in the report.

Mr. MACON. It recommends favorable action on the measure, does it not?

Mr. STAFFORD. There are no facts contained in the report.

Mr. MANN. We must have an explanation of it.

Mr. GORDON. I will ask that the evidence in the case be read, Mr. Chairman.

Mr. MANN. Will the gentleman make a statement about it? We can not let the Military Committee get in the habit of re-

porting bills here without any statement of the facts upon which they are based.

Mr. CRAWFORD. I introduced that bill, and I can explain it. The applicant was enrolled and mustered by a recruiting officer who was killed before the papers were returned to headquarters. The papers were lost. Various comrades of this applicant filed affidavits to the effect that they were present. Even Confederate soldiers, who were in the Confederate service at the time, who saw him after he had been captured and while he was a prisoner, they have made affidavits to that effect, and the committee have simply failed to incorporate in their report the evidence setting out these facts.

Mr. MANN. Is there any report from the War Department on the bill?

Mr. CRAWFORD. There was no military record, because of the facts which I have stated. This bill simply asks that the man be mustered. He enlisted in the service, and the recruiting officer was killed before the papers were returned to headquarters, as I have stated.

Mr. MANN. Then this is not only to get a man out of the army, but to put him in and get him out both?

Mr. CRAWFORD. There is no other way.

Mr. MANN. It seems to me, in a case of that sort, we are entitled to have the facts printed in the report.

Mr. CRAWFORD. I will state that that J. B. Duckett, one of the comrades of this soldier, was mustered ten or fifteen years ago by a special act. I do not mean to say that the report was not filed in that case, but he has been on the pension rolls ten or fifteen years, and was with this soldier at the time he was captured and made prisoner, and makes affidavit to the fact.

Mr. MANN. That is a case which was passed upon before my service in Congress.

Mr. CRAWFORD. I am satisfied that there were a great many mistakes made before the gentleman came to Congress. [Laughter.]

Mr. MANN. I think I will have to object.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

Subsequently,

Mr. GORDON. Mr. Chairman, I ask unanimous consent of the House to go back to the bill (H. R. 10752) to complete the military record of Adolphus Erwin Wells. I understand that the gentleman from Illinois [Mr. MANN] will withdraw his objection until I can present the evidence in that case, which I ask the Clerk to read.

The CHAIRMAN. The gentleman from Tennessee [Mr. Gordon] asks unanimous consent to recur to the bill H. R. 10752. Is there objection?

There was no objection.

Mr. GORDON. I ask the Clerk to read the paper which I have sent to the desk.

The CHAIRMAN. Without objection, the Clerk will again report the bill.

The bill was again read by the Clerk.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

Mr. MANN. The gentleman from Tennessee has called it up for the purpose of supplying an omission in the report.

The CHAIRMAN. The Chair understands the gentleman from Illinois to reserve the right to object. The gentleman from Tennessee [Mr. Gordon] is recognized, and the Clerk will read the document sent up by the gentleman from Tennessee.

The Clerk began the reading of the document.

Mr. MILLER. I ask unanimous consent that the further reading of this report be omitted and that it be printed in the RECORD.

Mr. MANN. How long is it?

Mr. MILLER. It is quite long.

Mr. GORDON. About 4 pages of manuscript.

Mr. MANN. I think it ought to be read, but I will not insist upon it.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent that the further reading of the document be dispensed with and that it be printed in the RECORD. Is there objection?

There was no objection.

The document is as follows:

#### NORTH CAROLINA, Buncombe County:

Personally appeared before me, W. E. Waldrop, a notary public in and for said county and State, Adolphus E. Wells, and made oath that I enlisted in Company E, Ninth Tennessee Cavalry, on the 16th day of June, 1864, at Sandymush, N. C., and was sworn into service by Manson J. Wells, under Andrew Scruggs as captain, and Joe Parson as colonel of said company and regiment, and served from the 16th day of June, 1864, until the close of the war. I was a recruiting officer for

said company, and while on my way to my command at Knoxville, Tenn., with 18 men, I was fired upon near the state line mountain by an attachment of Confederate soldiers, capturing 6 of my men, wounding 6, and 6 of them making their escape, and I later being captured and put in prison at Asheville, N. C., for eight months.

[SEAL.] ADOLPHUS E. WELLS.  
Sworn to and subscribed before me this December 24, 1907.  
[SEAL.] W. E. WALDROP,  
A Notary Public for said County and State.

STATE OF NORTH CAROLINA, Buncombe County, affiant:

Personally appeared before me, W. E. Waldrop, notary public in and for said county and State, James B. Duckett, affiant, being duly sworn, and deposes and says that he enlisted in Company E, Ninth Tennessee Cavalry, on or about 16th day of June, 1864, at Sandy Mush, N. C., and was sworn into service before Manson J. Wells, recruiting officer, under Andrew Scruggs, as captain, and Joe Parson, as colonel, of said regiment, and that he knows of his own personal knowledge that Adolphus E. Wells was also recruiting officer in said regiment; that he saw his recruiting papers, and saw him in discharge of his duty as such officer; and when on his way in company with said Adolphus E. Wells and 18 men, who had been recruited by him and Manson J. Wells, to their command, stationed at Knoxville, Tenn., were fired upon by Confederate soldiers near the North Carolina and Tennessee state line, but 12 of whom were captured, 6 of which number were wounded; 6 made their escape; and I later, together with Adolphus E. Wells, were captured. This occurred the 19th day of June, 1864.

The affiant further says that he was wounded and captured, and that said Adolphus E. Wells was captured, and that both of whom, with others, were carried to Asheville, where they were lodged in a Confederate prison for a period of nine months; that he knows and believes that at the time that he and Adolphus E. Wells were captured, that Manson J. Wells aforesaid was killed—it was so reported—and that he has never seen him since, and that he knows and believes that the recruiting papers were in his possession at that time; for that reason they were lost or destroyed by the Confederate soldiers aforesaid. The affiant further says that he has no interest in the pension that the said Adolphus E. Wells may obtain, that he has already been mustered and granted a discharge by the Secretary of War, under an act of Congress in 1895, and that he is now drawing a pension.

JAMES B. DUCKETT.

Witness: W. T. HALL.

Subscribed and sworn to before me this 16th day of January, 1908.  
[SEAL.] W. E. WALDROP, a Notary Public.

NORTH CAROLINA, Buncombe County:

Personally appeared before me, W. E. Waldrop, a notary public in and for said county and State, R. M. Boyd, and made oath that I enlisted in Company E, Ninth Tennessee Cavalry, on or about the 16th day of March, 1864, at Sandy Mush, N. C., and was sworn into service by Manson J. Wells, a recruiting officer, under Andrew Scruggs as captain and Joe Parson as colonel of said company and regiment, and I was sworn into service by a recruiting officer of said company and regiment on the last day of April, 1864; while on our way to our command at Knoxville, Tenn., we were fired upon near the North Carolina and Tennessee state line by the Confederate soldiers, wounding 6, capturing 6, and 6 of us making our escape, and I later being captured and placed in prison at Asheville, N. C., and in a short time I was put on duty as guard as a conscript, and I guarded Adolphus E. Wells while he was in prison at Asheville, N. C., and was present when he was fired upon by the Confederate soldiers. I know the above facts to be true of my own personal knowledge, and know that Adolphus E. Wells is entitled to a pension.

R. M. BOYD.

[SEAL.] Sworn to and subscribed before me this December 28, 1907.  
[SEAL.] W. E. WALDROP, a Notary Public.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

JOHN O. KINNEY.

The next business on the Private Calendar was the bill (H. R. 13244) to place upon the muster-in rolls the name of John O. Kinney.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of War be, and he is hereby, authorized and directed to enter the name of John O. Kinney on the muster rolls of Company H, Fifty-third Regiment Massachusetts Volunteer Infantry, as of date September 3, 1862.

With the following committee amendments:

Strike out all after the enacting clause and insert:

"That John O. Kinney shall hereafter be held and considered to be entitled to all of the rights and benefits that he would be entitled to on account of military service, except pay, bounty, and other emoluments, if he had been continuously in the military service of the United States as a private of Company H, Fifty-third Regiment Massachusetts Volunteer Infantry, from the 3d day of September, 1862, to the 14th day of November, 1862, and had been honorably discharged on the date last named herein for gunshot wound incurred in the line of duty."

The CHAIRMAN. It seems to the Chair that in order to save time the objection to consideration of these bills should be made, if made at all, immediately after the bill is read. The Chair will inquire whether objection is made?

Mr. MACON. Mr. Chairman, I shall have to reserve the right to object, in order to object intelligently, until the gentleman explains the bill.

The CHAIRMAN. The gentleman from Arkansas reserves the right to object.

Mr. TIRRELL. Mr. Chairman, the circumstances in this case are unusual, considering the long lapse of time since it occurred. John O. Kinney joined a Massachusetts company September 3, 1862, and went into camp with the company in the town now

known as Groton, Mass. He was in the service there, engaged in enlistment, being a man of a great deal of intelligence and capacity, and subsequently employed until about the 12th of October, when he was in bathing in a river in that town within the precincts of the camp and was shot. It was supposed to be while target practice was going on. That incapacitated him from further service, and he was taken to a hospital, where a surgeon attended him. The surgeon is now living and gives his affidavit, which is printed in this report. The company was sworn in about the 12th of October and placed on the muster rolls, but he being at that time in the hospital was unable to appear and be sworn in with them. But there is evidence that he was sworn in, and the names of some of the witnesses who were present at that time can also be given.

Now, along about the 1st of November, not recovering sufficiently to resume active duty, he was given leave of absence until the 14th day of November of that year. On the 14th day of November, not improving in health, unable to leave his home, an affidavit of his physician was procured.

Mr. MACON. If the gentleman will allow me, I will say that this case is no better than the one just preceding this, the one advocated by the gentleman from North Carolina [Mr. CRAWFORD], and I object to it.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

Subsequently,

Mr. TIRRELL. Mr. Chairman, inasmuch as the gentleman from Arkansas [Mr. MACON] objected to the consideration of the bill H. R. 13244 because the preceding bill had been objected to, and as that objection has been withdrawn, I ask unanimous consent that we may now take up H. R. 13244.

Mr. WILLIAMS. Mr. Chairman, it is perfectly evident that if we are to ask unanimous consent to recur to every bill that has been objected to, the unanimous-consent rule under which we are operating will be knocked in the head. I therefore object.

Mr. TIRRELL. Will the gentleman permit me to state that the reason this bill was objected to was because the preceding bill was objected to, and that objection has been withdrawn?

Mr. WILLIAMS. I am very sorry I did not object to that.

Mr. MANN. The gentleman can make his request after we get through with the calendar.

R. J. WARREN.

The next bill on the Private Calendar was the bill (H. R. 21058) for the relief of R. J. Warren.

The bill was read, as follows:

*Be it enacted, etc.*, That there be paid, out of any money in the Treasury of the United States not otherwise appropriated, the sum of \$594.60, or so much thereof as in the opinion of the Secretary of the Treasury was properly incurred, to R. J. Warren, of Aberdeen, Miss., for expenses incident to defending an indictment made in Franklin County, Ala., and in the United States court at Huntsville, Ala., against said R. J. Warren, charging him with the murder of Houston Vines, while said Warren as a United States marshal was attempting to make an arrest of said Vines for violation of the internal-revenue laws of the Government.

The following committee amendment was read:

In lines 4 and 5 strike out the words "five hundred and ninety-four" and insert in lieu thereof the words "four hundred and ninety-nine."

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

The amendment was agreed to.

Mr. HOLLIDAY. I do not want to take up the time of the committee, but I would like to ask an explanation.

Mr. CANDLER. This man Warren was a deputy United States marshal, and in arresting certain distillers they were fired upon and returned the fire. Warren was afterwards charged with murder, arrested, and tried, and this is to reimburse him for the expenses of the trial.

The bill was ordered to be laid aside with a favorable recommendation.

HARTSHORNE, OKLA.

The next business was the bill (S. 4289) for the relief of the people of Hartshorne, Okla.

The bill was read.

Mr. HACKETT. Mr. Chairman, I shall have to ask that that go over.

The bill was ordered to be passed without prejudice.

ROBERT MORGAN GILSON.

The next business was the bill (S. 3952) to restore to the active list of the United States Marine Corps the name of Robert Morgan Gilson.

The bill was read.

The CHAIRMAN. Is there objection?



Mr. SLAYDEN. Mr. Chairman, I shall reserve the right to object until I hear an explanation of why we should increase the Marine Corps by one officer.

Mr. FOSTER of Vermont. Mr. Chairman, we are doing that every day. They had an examination the other day where 150 young men, or about that number, took an examination to fill something like 60 vacancies in the Marine Corps.

Mr. SLAYDEN. This is not to fill a vacancy, I will say to the gentleman, but it is to make an additional officer.

Mr. BUTLER. It will add an additional number if restored, and if the gentleman from Texas will permit me to add to the answer of the gentleman from Vermont, the officers of the navy insist on retaining the Marine Corps at its present number, and, furthermore, the department has asked in a letter that this young man should be restored to the service as an additional number.

Mr. SLAYDEN. That is exactly the point upon which I was basing my objection, that it is to make an additional officer. I shall object.

The bill was ordered to be passed without prejudice.

WILLIAM JONDROU.

The next business was the bill (S. 2712) to authorize the Secretary of the Interior to investigate and cancel the allotment of William Jondron, Yankton Sioux allottee, should it prove to be fictitious.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Interior be, and he hereby is, authorized and directed to investigate the allotment made in the name of William Jondron, Yankton Sioux allottee No. 1147, and if it be shown to his satisfaction that no such person as William Jondron was in existence at the time the Yankton Indians were allotted he is hereby authorized and directed to cancel the patent issued in the name of William Jondron and also the record of the allotment in his name, and to reallocate the lands covered thereby to a member or members of the Yankton tribe who were entitled to allotments, but failed to receive land when the Indians of the said tribe were allotted lands in severalty.

Mr. FERRIS. Mr. Chairman, reserving the right to object, I would like to hear an explanation of the bill.

Mr. HACKETT. Mr. Chairman, the bill itself is self-explanatory. It provides that the Secretary of the Interior may investigate the case of the allotment. It has been alleged that there was a fraudulent allotment to this party, that there is no such person in existence, and that the Secretary without law has no power to determine that question. This bill is to authorize him to investigate, and if he finds there was a fraudulent allotment he will cancel the patent.

Mr. FERRIS. Is there any provision in the act to allot to any other individual?

Mr. HACKETT. No; not to an individual, but to the tribe.

Mr. FERRIS. Then, as I understand it, the bill purports to investigate a fraudulent allotment, and if found fraudulent to return it to the tribe?

Mr. HACKETT. Yes.

Mr. FERRIS. I have no objection.

The bill was ordered to be laid aside with a favorable recommendation.

ELI PETTIJOHN.

The next business was House resolution 414, referring to the Court of Claims the claim of Eli Pettijohn.

The resolution was read, as follows:

*Resolved,* That the bill (H. R. 11128) for the relief of Eli Pettijohn, now pending in the House of Representatives, together with all the accompanying papers, be, and the same is hereby, referred to the Court of Claims, in pursuance of the provisions of an act entitled "An act to provide for the bringing of suits against the Government of the United States," approved March 3, 1887; that the said court shall proceed with the same in accordance with the provisions of said act and report to the House of Representatives in accordance therewith their findings of fact and law, and especially the value of the property taken from the said Eli Pettijohn by the United States, and whether said Pettijohn's claim is or was properly against the United States or against one Franklin Steele or some other person or corporation.

Mr. MANN. Mr. Chairman, reserving the right to object, I would like to ask whether the gentleman would accept an amendment striking out that portion of the resolution which directs the court how to proceed, that all being now covered by law. I would suggest that we strike out all after the word "seven," in line 8.

Mr. MILLER. I would have no objection to that.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the word "seven," in line 8.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The resolution as amended was ordered to be laid aside with a favorable recommendation.

#### NEBRASKA MUTUAL LIFE INSURANCE COMPANY.

The next business was the bill (H. R. 5573) for the relief of the Nebraska Mutual Life Insurance Company, of Stromsburg, Nebr.

Mr. MANN. Mr. Chairman, I shall have to ask that that bill go over.

Mr. HINSHAW. Mr. Chairman, I wish the gentleman would withhold his objection until I have made an explanation.

Mr. MANN. Very well; I shall reserve the right to object.

Mr. HINSHAW. Mr. Chairman, this is a bill that passed the House two years ago and went to the Senate, but too late to be passed by the Senate. I do not understand that there is any serious objection to the bill. I have never heard any urged that was of sufficient importance to deserve serious consideration.

Mr. MANN. I will call the attention of the gentleman to the fact that the Commissioner of Internal Revenue, who has peculiar jurisdiction over matters of this sort, has reported against the bill and advised against its passage. I should consider that quite a serious objection.

Mr. HINSHAW. That is true, Mr. Chairman; but, nevertheless, the Commissioner of Internal Revenue at no place gives any reason why it should not be passed, and there is an abundance of reason why any man can see its passage is justified. It was a life insurance company organized under the laws of the State of Nebraska, not for profit, but as a mutual-benefit life insurance company. It was organized in the year 1898.

And that year the assessments which were levied were largely spent in paying agents, in establishing agencies. There were no losses in the years 1898 or 1899 to speak of. In that year the Spanish-American war occurred. Under the law which was then enacted, a levy was made for Spanish-American taxes against this company upon the theory that it was for profit and not for mutual benefit alone. Afterwards it was abundantly shown by testimony, voluminously given in this report, that it was not a company for profit, but strictly for mutual benefit, as shown by the certificate of Mr. Searle, auditor of public accounts, who says specifically in his certificate that said life insurance company was organized for mutual protection to its members without any profit. Now, the Commissioner of Internal Revenue gives the only reason why he could not recommend the passage of this bill, that the commissioner under whom the decision had been made in the first place had gone out of office, and under the practice obtaining there a subsequent commissioner would not reverse the action of the former commissioner, as it was against the law, as I understand, and therefore they had no recourse except to come to Congress.

Now, he does not give a reason why this bill should not pass. It is only \$1,471, and unquestionably this levy of taxes ought to be refunded, and I do not think that an arbitrary objection should be made, but let the matter come up on its merits.

Mr. MANN. Mr. Chairman, reserving the right to object, the gentleman refers to the objection as an arbitrary one. Without discussing the bill at this time, I simply read this language from the report of the Commissioner of Internal Revenue, which department made the levy:

The question of the liability of this company to tax was very carefully considered in this office before the assessment was made. After payment of the taxes and the presentation of the claim for refunding the question was again carefully considered, and the claim was rejected on March 1, 1902. Subsequently arguments were heard on the question of reopening and reconsidering the claim, and a reconsideration was denied. I am satisfied that the tax was legally assessed and made, and therefore can not recommend the passage of the pending bill.

The gentleman may call it an arbitrary objection, but after it has been three times considered by an officer of the Government whose duty it is to consider these things, giving three different considerations to it, and he objected to it, I do not think the gentleman can say the objection here is arbitrary.

Mr. HINSHAW. Now, Mr. Chairman, I would consider that the reply given by the Commissioner of Internal Revenue was worthy of consideration if he would give one single fact in refutation of the argument for the return of this money and the evidence produced in the case, but he simply states that it having been considered and rejected, it was reconsidered and rejected, and he could not see any reason to recommend it. But in no place does he show why the tax should have been levied, and no place does he give a valid and good reason why it should not be recommended for return.

Mr. MANN. It is not a custom of the department, in reply to the Committee on Claims, to argue the case, and it is not their province to do it. I assume the facts were properly submitted to the Commissioner of Internal Revenue. If they were not then presented to the commissioner, then they could not

be considered. If they were presented to the commissioner, they were either considered or the commissioner failed in the performance of his duty; but having been presented to him three times, I assume they presented the case to the best of their ability.

Mr. HINSHAW. The commissioner said he had no power to reconsider the claim because he was a subsequently appointed commissioner to the one who adjudicated the claim in the first place. Whether that be the law or not I am not advised. Now, I submit that proof is made here, which is shown in this report and is full enough to justify action. Here is a report of many pages carefully collated and collected. The report was made by Mr. WALDO, of New York, and I suppose there never was as complete a case made out as this, and in all justice I would like to have this bill passed and not go over, for if it goes over I fear it will not get consideration this session. These people have been out of this money for ten years. They ask no interest, but just the return of the original amount, and it does seem to me it is a matter of mere justice.

The CHAIRMAN. Does the gentleman from Illinois object?

Mr. MANN. Mr. Chairman, I feel obliged to object.

The CHAIRMAN. Under the rule, the bill will be passed without prejudice.

RICHARD HALEY.

The next business on the Private Calendar was the bill (H. R. 10714) authorizing the Secretary of the Interior to enroll Richard Haley and his family as Choctaw Indians.

Mr. MANN. Mr. Chairman, reserving the right to object, I would say to the gentleman in charge of the bill that the Secretary of the Interior made a recommendation against this bill. What is the necessity for it? For the present I will object.

Mr. OLLIE M. JAMES. I would suggest that the chairman of the committee might explain it. The gentleman from Oklahoma [Mr. CARTER], I understand, is sick.

Mr. MANN. There never has been a bill like this passed while I have been here. I think it would be vetoed.

The CHAIRMAN. The gentleman from Illinois [Mr. MANN] objects, and the bill will be passed without prejudice.

#### CLAIMS OF SHAWNEE INDIANS.

The next business on the Private Calendar was the bill (H. R. 17191) to confer jurisdiction, legal and equitable, upon the Court of Claims in the matter of the claims of certain Shawnee Indians to be enrolled as Cherokees under the treaty of July 19, 1866, agreement of June 7, 1869, the act of October 1, 1890, and decrees of the courts thereunder, and for other purposes.

Mr. MANN. Mr. Chairman, I ask that this bill go over.

ROBERT S. DAME.

The next business on the Private Calendar was the bill (H. R. 21895) for the relief of Robert S. Dame and others, and for other purposes.

Mr. PRINCE. Mr. Chairman, I ask that the bill go over without prejudice.

The CHAIRMAN. The gentleman from Illinois [Mr. PRINCE] objects.

Mr. PRINCE. I do not object. I ask unanimous consent that the bill be passed without prejudice.

Mr. MANN. To save the gentleman trouble, I will object. It is an omnibus bill, presented at the last session of Congress, and has no business to be brought up now.

CLARA A. CARTER.

The next business on the Private Calendar was the bill (H. R. 20204) for the relief of Clara A. Carter, widow of Martin J. Carter, late consul of the United States to Yarmouth, Nova Scotia.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Clara A. Carter, the widow of Martin J. Carter, late consul of the United States to Yarmouth, Nova Scotia, who died at his post of duty on the 9th day of October, 1905, the sum of \$861.11, being the balance of one year's salary.

On motion of Mr. COOPER of Pennsylvania, the bill was ordered to be laid aside with a favorable recommendation.

JAMES A. GALBRAITH.

The next business on the Private Calendar was the bill (H. R. 870) for the relief of the heirs of James A. Galbreath.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the heirs of James A. Galbreath, late collector of internal revenue for the eastern district of Tennessee, out of any money in the Treasury not otherwise appropriated, the sum of \$500.

Also the following amendments:

Page 1, correct spelling of name in title and in the bill from "Galbreath" to "Galbraith."

Page 1, at the end of line 7, add the words "in full settlement of all claims."

Mr. MACON. Mr. Chairman, reserving the right to object, I would like to ask the chairman of the committee what this \$500 is to be paid for?

Mr. MILLER. In the settlement of the accounts of this man they kept out \$500 more than they ought to have kept out, and this is simply to pay him what he ought to have been paid when the settlement was made.

Mr. MACON. That is all I want to know.

The CHAIRMAN. The question is on agreeing to the committee amendments.

The question was taken, and the amendments were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

HERMAN LEHMANN.

The next business on the Private Calendar was the bill (H. R. 2635) for the relief of Herman Lehmann.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Herman Lehmann \$128 for the loss of personal property sustained by him while in the service of the United States as clerk in the Quartermaster's Department, United States Army, by reason of the burning of the Government warehouse at Seattle, Wash., on May 7, 1906. The above-named appropriation shall be in full for all claims against the United States Government.

Mr. MACON. Mr. Chairman, I reserve the right to object so the gentleman can explain what the property was that was destroyed.

Mr. MILLER. This is a claim for unliquidated damages to the amount of \$128.

Mr. MACON. What kind of property was destroyed, and how?

Mr. BONYNGE. It consisted of bed springs, beds and clothing, and personal property of that description, and the department recommended the payment.

Mr. MACON. On what theory is the Government liable?

Mr. MILLER. Let me read what the report says:

WAR DEPARTMENT,  
QUARTERMASTER-GENERAL,  
Washington, April 29, 1908.

Respectfully returned to the Secretary of War, H. R. 2635, Sixtieth Congress, first session, a bill for the relief of Herman Lehmann, for payment of \$128 for loss of personal property by reason of the burning of the government warehouse at Seattle, Wash., May 7, 1906, with information that the records of this office show that a claim was filed by Herman Lehmann June 7, 1906, amounting to \$128, and was returned to him June 12, 1906, with information that his claim, being one for "unliquidated damages," is not possible of settlement by this or any other department of the Government. Congress alone can grant relief in this matter.

This bill is similar to S. 2489, Sixtieth Congress, first session, for the relief of Harry G. Rupp, and S. 4426, Sixtieth Congress, first session, for the relief of Thomas C. Clark, on both of which this office recommended favorable consideration.

Mr. MACON. Under what circumstances was this property in the government warehouse?

Mr. BONYNGE. He was a civil employee of the Quartermaster-General, and had to have his property there. I will say that this Congress had passed a bill for another person who had property destroyed at the same time and under exactly the same circumstances and by the same fire.

Mr. MACON. Was not the Government accommodating this gentleman by sheltering his property free of charge?

Mr. MILLER. The report also says:

It is the opinion of this office that this also is a just claim, and it is recommended that it be favorably considered by Congress.

Mr. BONYNGE. Congress has passed numerous bills covering similar cases.

Mr. MILLER. Of exactly the same kind.

Mr. BONYNGE. And one for a loss occasioned by the same fire, and this Congress has passed such a bill.

Mr. MACON. The proposition that staggers me in connection with appropriations of this kind is this: Why should the Government, when it meets with an accidental loss of a warehouse by fire, an arsenal by explosion, or a light-house by the ravages of a cyclone or by any other act that it has nothing to do with and is in no wise responsible for, be called upon to reimburse any and everybody who may unfortunately have had property destroyed in and about the building that was burned, the arsenal that was blown up by an explosion, or the light-house that was destroyed by a cyclone? I can not get it into my mind fairly and squarely, to save my life, as to why the Government should be responsible for losses of that kind.

Mr. MILLER. I yield to the gentleman from Illinois.



Mr. MACON. I would like to have an explanation from the gentleman from Kansas in regard to this bill.

Mr. WILLIAMS. Is the gentleman from Arkansas objecting?

Mr. MACON. I reserve the right to object, and I want to object intelligently, if I object at all. The explanation of the gentleman in charge of the bill will control my action in regard to the matter. I do not want to object captiously or ignorantly upon this or any other question coming before the House for consideration.

Mr. WILLIAMS. I understood you to have yielded the floor.

Mr. MACON. But I reserved the right to object before doing so.

Mr. MILLER. I have yielded the floor to the gentleman from Illinois, who will explain the bill.

Mr. MANN. I will not take very much time. I can assure gentlemen that they will have opportunity to reach every unobjected bill, as well as the other bills, during the afternoon.

This man was ordered on travel by the Government. He is a government employee. He was required to make the trip. The Government furnished him transportation. If he had been on a railroad and the baggage had been in a railroad baggage office and had been burned, the railroad would have been responsible to him for his baggage. In this case his baggage was in the quartermaster's office.

Mr. MACON. But, if the gentleman will allow me to interrupt him, I will say that if the railroad had been compensated by the passenger by the payment of transportation over its line that would have entitled him to store his property in the railroad warehouse.

Mr. MANN. The Government is supposed to be compensated—I would not say it was always so—by the services of the employee, and the travel, because that is part of his employment. While there is no legal liability, it would seem that the Government might fairly, where it required a man to travel, in its own vehicles, to deposit his baggage in its own warehouse, travel on its own ship—that the Government might properly, in a case presented to Congress, assume voluntarily such liability as a railroad would be compelled to assume legally.

Mr. MACON. But ought he to deposit his property in a government warehouse free of charge and expect the Government to reimburse him for property lost through no fault of or negligence on the part of the Government?

Mr. MANN. Because there is no other way he could do. It had been carried there by the Government; he did not deposit it personally. The Government deposited it in the transportation of the man and his baggage.

Mr. EDWARDS of Georgia. It was a government warehouse, was it not?

Mr. MANN. Yes; it was properly deposited for the purpose of putting it on board ship. The man was on travel, and it seems to me that the Government might do voluntarily that which a corporation would be required to do whether it desired to do it or not.

Mr. BONYNGE. And especially in such a case as this, where the loss has been paid to others who lost in the same fire. I hope the gentleman will not object.

Mr. MACON. The gentleman is not going to object.

The CHAIRMAN. Does the gentleman from Arkansas insist on his objection?

Mr. MACON. I withdraw the objection, Mr. Chairman.

The CHAIRMAN. The objection is withdrawn, and without objection the bill will be laid aside with a favorable recommendation.

There was no objection.

WILLIS A. JOY.

The next business on the Private Calendar was the bill (H. R. 6903) for the relief of Willis A. Joy.

The bill was read.

Mr. MANN. I ask that that go over.

The CHAIRMAN. Objection is made, and under the rule the bill will go over without prejudice.

AUGUSTUS BANNIGAN.

The next business on the Private Calendar was the bill (H. R. 16191) to refund certain moneys paid into the Treasury of the United States through mistake by Augustus Bannigan.

The bill was read, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to repay to Augustus Bannigan the sum of \$419, paid into the Treasury of the United States by mistake by the said Augustus Bannigan, and which said money has been placed to the credit of pension appropriations for 1893, 1894, and 1895.

The amendment recommended by the committee was read, as follows:

In line 5 strike out "nineteen" and insert "fourteen."

The CHAIRMAN. Is there objection?

Mr. MACON. Reserving the right to object, I would like an explanation made of the mistake.

Mr. MILLER. I yield to the gentleman from New Jersey.

Mr. MACON. I would like to know how it was paid in by mistake.

Mr. HUGHES of New Jersey. Mr. Chairman, it will give me great pleasure to explain to the gentleman from Arkansas and the other Members of the House how the mistake occurred. This man was a soldier in the army during the entire civil war. After having served during the entire term of the civil war he was discharged from the army. He then reenlisted in the Regular Army and was sent to one of the western posts. Being a young man, the humdrum life of the army post did not appeal to him, and he deserted and came home. Now, having been severely wounded, he made an application for a pension. He did not state in his pension application that he had had any other service, hiding the fact that he was a deserter.

A pension was allowed to him, but somebody told him that his subsequent desertion disbarred him from receiving a pension. The fact preyed upon his mind, and he returned to the Secretary of the Interior his pension certificate and all the money that he had drawn under that pension certificate.

Mr. MANN. The fact is, he ought to be given a medal as an honor man.

Mr. MACON. Yes; the gentleman's statement is sufficient.

Mr. MANN. I move to amend the bill by inserting, after the word "Bannigan," in line 4, the words "out of any moneys in the Treasury not otherwise appropriated."

Mr. MILLER. There is no objection to that.

The CHAIRMAN. The Chair understands the gentleman from Arkansas [Mr. MACON] to withdraw his objection?

Mr. MACON. Yes; I just wanted an explanation about that mistake.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

In line 4, after "Bannigan," insert "out of any moneys in the Treasury not otherwise appropriated."

The amendment was agreed to.

The bill as amended was ordered to be laid aside, to be reported to the House with a favorable recommendation.

MARK S. GORRILL.

The next business on the Private Calendar was the bill (H. R. 18744) for the relief of the estate of Mark S. Gorrill.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to issue to the estate of Mark S. Gorrill, late of Methuen, Mass., duplicates in lieu of United States 4 per cent bonds of the funded loan of 1907, or to pay to the estate of Mark S. Gorrill the principal and interest due upon said bonds, described as follows: Registered bonds Nos. 13827, for \$500; and 25094, 25095, 25096, 25097, 25098, and 25099, for \$1,000 each, inscribed in the name of Mark S. Gorrill, amounting to \$6,500; and upon coupon bonds Nos. 12501, 14782, and 34015, for \$500 each, amounting to \$1,500, with interest coupons attached, dated April 1, 1895, and subsequently, said registered and coupon bonds having been lost: *Provided*, That the legal representatives of said estate shall first file in the Treasury a bond in the penal sum of \$12,500, with good and sufficient sureties, to be approved by the Secretary of the Treasury, with condition to indemnify and save harmless the United States from any loss on account of the said bonds and interest coupons.

The bill was ordered to be laid aside with a favorable recommendation.

W. H. BLUROCK.

The next business on the Private Calendar was the bill (H. R. 19839) for the relief of W. H. Blurock.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury is hereby authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of \$185 to W. H. Blurock, for property destroyed by fire at Arlington dock, Seattle, Wash., on May 6, 1906.

With the following committee amendments:

Page 1, line 7, strike out the word "sixth" and insert in lieu thereof the word "seventh."

Mr. MACON. Mr. Chairman, I would like to know how the Government is responsible for the destruction of this property?

Mr. JONES of Washington. This is of the same character as the bill of the gentleman from Colorado [Mr. BONYNGE].

Mr. MANN. It is not the same fire, and I am not sure that it is of the same character.

Mr. JONES of Washington. He was a civil employee in the quartermaster's office.

Mr. MANN. I reserve the right to object, Mr. Chairman.

Mr. JONES of Washington. This is the same fire—May 7, 1906. This man was a civil employee in the Quartermaster-General's office, and it is for the loss of his personal effects which were destroyed.

The amendment was agreed to.

The bill was ordered to be laid aside with a favorable recommendation.

GEORGE W. WICKES.

The next business on the Private Calendar was the bill (H. R. 18639) for the relief of George W. Wickes.

The Clerk read the bill, as follows:

Whereas George W. Wickes, a born member of the Pottawatomie tribe of Indians failed, through ignorance of his rights, to avail himself of the allotments and benefits granted by the United States to the members of his tribe under certain treaties made between the said Pottawatomie tribe of Indians and the United States and has at no time received any moneys, land, or other property from the United States; and

Whereas the said George W. Wickes served faithfully in defense of the Union as a private soldier in the civil war and received an honorable discharge therefrom; and

Whereas the said George W. Wickes is now aged and infirm and unable to earn a livelihood for himself and family; and

Whereas all property and moneys formerly held by the United States under certain treaties, in trust for the said Pottawatomie tribe and the members thereof, have been distributed, and there now remains in the hands of the United States no moneys or property of any kind due to said tribe or any member thereof: Therefore

*Be it enacted, etc.,* That the Secretary of the Interior be, and he is hereby, authorized and directed to allot to the said George W. Wickes and his two children, out of any lands being a part of the unappropriated public domain of the United States, 160 acres each, to be selected by the said George W. Wickes, and the Secretary of the Interior is hereby authorized and directed to issue to each of said persons a patent in fee simple for the said lands so allotted, the same to be in lieu of all allotments, moneys, and annuities which the said parties should have received as members of said tribe and in full settlement of all claims of the said George W. Wickes and his said children against the United States.

The following committee amendments were read:

Amend by striking out the preamble.

Amend page 2, line 6, by inserting after the words "United States" the words "and subject to homestead entry."

Amend page 2, line 10, by striking out the words "in fee simple."

Amend by adding, after line 14, on page 2, the following:

"The patent that shall issue herewith to George W. Wickes shall be in fee simple. The patents that shall issue to each of the two children shall be of the legal effect and shall declare that the United States does and will hold the land thus allotted for the period of time preceding the years of majority of each child, and the date fixed in each patent by the United States as the true date of majority for each child shall be held as the true date of majority for the carrying out of the provisions of this act."

Mr. FERRIS. Mr. Chairman, reserving the right to object, I would like to hear an explanation of this.

Mr. BONYNGE. Mr. Chairman, under the treaty of the United States with the Pottawatomie Indians, November 15, 1861, the Secretary of the Interior was authorized to allot to members of the tribe 160 acres of land. George W. Wickes was a member of the tribe. He was not enrolled until after all the lands of the tribe had been disposed of. He was in the civil war—enlisted, I think, in 1863, in Colorado, and served for two or three years. He knew nothing about his rights until the property had been disposed of. He had been regularly enlisted. The surplus land belonging to the tribe had been otherwise disposed of before he knew about it.

Mr. MURDOCK. Was Wickes with his tribe at the time the lands were disposed of?

Mr. BONYNGE. No.

Mr. FERRIS. But by this bill I understand the land is to go to him in fee simple, and if there are no restrictions as in the case of other Indians—

Mr. BONYNGE. No; they were given their lands in fee simple. The bill provides that 160 acres of the land shall be given to him in fee simple, but as to the children—

Mr. FERRIS. The part of the band in your State may have been released from restrictions, but all over my State are numerous Indians of the same tribe that are under restrictions.

Mr. BONYNGE. The Pottawatomie tribe got their land in fee simple.

Mr. FERRIS. Not in my State. I get letters from some of them almost every day desiring their restrictions removed.

Mr. BONYNGE. I am quite certain that the report from the Secretary shows that they got their land in fee simple.

Mr. FERRIS. I am not disputing the gentleman on that particular band.

Mr. BONYNGE. The Secretary says, as shown by the report:

The third article of the treaty provided that whenever the President of the United States was satisfied that any male adults who were heads of families and who were allotted under the provisions of the foregoing article were sufficiently intelligent and prudent to control their affairs and interests, he might, at the request of such persons, cause the lands held by them in severalty to be conveyed to them in fee simple with power of alienation, etc.

Mr. FERRIS. That is true under the Burton Act in regard to all Indians. But that calls for a discretion of the Secretary of the Interior.

Mr. BONYNGE. In this case, where this man had been in the service of the Government of the United States in defense of the Union, and has been living away from his tribe supporting his family, surely there would be no contention on the part of the gentleman that he is not sufficiently intelligent under that provision of the law to have the land allotted to him in fee simple.

Mr. FERRIS. The only objection I desire to make, and all I see, is that if this bill passes and lets these Indians have these lands in fee simple when other Indians of the same tribe are restricted as not competent to transact their own affairs—

Mr. BONYNGE. That is only in cases where they are not competent.

Mr. FERRIS. It is my belief that if we give them the land in fee simple they will not remain in the hands of these Indians long.

Mr. MANN. May I ask when these lands were allotted to the tribe?

Mr. BONYNGE. I think I can tell the gentleman in a moment.

Mr. MANN. I judge they were allotted under the act of 1887 and under previous acts. At the time of that allotment I suppose any unborn children would not be considered in the allotment. Now, what are the ages of these children?

Mr. BONYNGE. One is 14 and the other is 16.

Mr. MANN. How does the gentleman figure out that those children are now entitled to an allotment because their father did not take an allotment twenty years ago? If he had taken the allotment then, they claim he would not be entitled to one now.

Mr. BONYNGE. The gentleman is wrong as to the date, because the Secretary, in his letter printed in the report of the committee, says this:

It does not appear that George W. Wickes made application for an allotment prior to the conclusion of the work and the opening of the surplus lands to public settlement.

Mr. MANN. I also read from the report, from the letter of the Secretary:

After the passage of the act of February 8, 1887, it was held that the citizen band of Pottawatomie Indians were entitled to allotments under that act without payment of the cost of the land, and that each member of the band who was allotted under the provisions of the treaties heretofore referred to and their descendants were entitled to allotments in the Indian Territory.

That is the last provision for making allotments.

Mr. BONYNGE. There were previous allotments to that.

Mr. MANN. Very well. That was twenty years ago. Now, if the old gentleman had taken an allotment at that time, that would have settled the thing. Because he did not get one then and did not apply for one, the gentleman now tries to get him and his two minor children—

Mr. BONYNGE. No; his children would have had the allotment because—

Mr. MANN. Then, all the children of all these other people who have taken allotments are now entitled to allotments.

Mr. BONYNGE. No; the report says:

Had George W. Wickes appeared as a member of the tribe at the time of the allotting of lands to the Pottawatomie Indians and the distribution of the tribal property, he would have received his share of the tribal property in all probability, and in addition to this would have received an allotment of land. The same is true with regard to the two children, and it is proper to state that both children were born prior to the final allotments of the land allotted to the Pottawatomie Indians—

Mr. MANN. They were born prior to the final allotments.

Mr. HACKETT. Mr. Chairman, I shall have to object to this bill.

The bill was ordered to be passed without prejudice.

WILLIAM PARKER SEDGWICK.

The next business was the bill (H. R. 22017) for the relief of William Parker Sedgwick and others, and for other purposes.

Mr. BUTLER. Mr. Chairman, that bill was passed and has no place on the calendar.

Mr. MANN. I shall have to object.

The bill was ordered to be passed without prejudice.

Mr. BUTLER. It was passed the other day.

MARY S. FERGUSON.

The next business was the bill (S. 6529) for the relief of Mary S. Fergusson.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Mary S. Fergusson, widow



of Arthur W. Fergusson, late executive secretary of the Philippine Islands, who died January 30, 1908, in the service of the Government, the sum of \$4,500, being the amount of salary for six months.

The CHAIRMAN. Is there objection?

Mr. MANN. Mr. Chairman, I reserve the right to object, and I would like to have some explanation. The bill apparently creates a precedent for paying a gratuity out of the United States Treasury.

Mr. COOPER of Wisconsin. Mr. Chairman, this is a Senate bill and can not, I think, be held to threaten a dangerous precedent, for the reasons set forth in the report which I drew on the bill. I read from page 4 of the report:

During the eight years of arduous, laborious services in the Philippines, Mr. Fergusson took only six months' vacation. More than once he requested leave of absence to recuperate his wasted energies, but each time his superiors felt that his services could not be spared, and so he remained at his post until at last nature succumbed and he fell dead, a martyr to duty. His widow and one child survive him.

To few men is ever given the power and the opportunity in time of peace to render services so illustrious as were those of Arthur Fergusson to the Philippines and the United States.

There need be no fear that the appropriation provided for in the accompanying bill will serve as a precedent for any subsequent appropriation until some other public servant, combining in himself the capacity for labor, the energy, the devotion to duty, the charm of personality of Arthur Fergusson, and blessed with his rare genius, shall die as he died and leave as noble a record.

Mr. Chairman, I wrote that out of the fullness of my own knowledge, and in accordance with the uncontradicted testimony of every man competent to judge who knew Arthur Fergusson. I call attention to the statements concerning him made by the Philippine Commission, by Secretary Taft, by John Bassett Moore, by Judge Gray, formerly of the United States Supreme Court, and by other eminent men.

Mr. OLLIE M. JAMES. What is the amount of this?

Mr. COOPER of Wisconsin. Four thousand five hundred dollars. I move to lay the bill aside with a favorable recommendation.

Mr. MANN. Oh, well, Mr. Chairman—

Mr. COOPER of Wisconsin. If the gentleman desires further information, I would be glad to give it.

Mr. MANN. I should have to object or to reserve the right to object until I get further information. I wish enlightenment, and the gentleman from Wisconsin is able to give it. I would like to ask the gentleman a question. This is a proposition to pay this man six months' salary out of the Treasury of the United States. Out of what fund was the man's salary paid?

Mr. COOPER of Wisconsin. Paid by the Filipino government.

Mr. MANN. Then I think the Filipino government had better pay the gratuity.

Mr. COOPER of Wisconsin. The services of Arthur Fergusson were services for the United States, although rendered in the Philippines. It is not too much to say, Mr. Chairman, that in the opinion of the Filipino commission, of Secretary Taft, of the present Secretary of War, General Wright, and of the Filipinos themselves, these were services which no man in the world could have rendered except Arthur Fergusson.

Mr. EDWARDS of Georgia. Mr. Chairman—

The CHAIRMAN. Does the gentleman from Wisconsin yield?

Mr. COOPER of Wisconsin. I want to emphasize this point: The services of this man were not alone for the Philippine government, but also, and in an especial degree, for the Government of the United States. When war was on he went among the Filipinos, talked to them, interpreted speeches from English into idiomatic Spanish and Spanish speeches into idiomatic eloquent English with an accuracy, grace, force, and fluency absolutely unrivaled.

The Philippine Commission say:

The value of the services rendered by him in the various provinces for the purpose of establishing civil government can not be adequately measured at this date. His interpretations were clothed with the true feelings of the commission, and bred a trust in the United States and its beneficent policy which smoothed away a thousand difficulties and made possible that harmony and good understanding without which the solution of a very difficult problem would have been impossible.

He was the interpreter of the International American Conference of 1889, of the International Railways Commission of 1891, and secretary of the International Monetary Commission. He served the United States on the Chilean Claims Commission, the United States-Venezuelan Commission, and was the official interpreter to the American negotiators of the treaty of Paris. Each one of those negotiators, Senator FRYE or Justice DAY, of the Supreme Court, or any of their associates, will say that they could not have carried out these negotiations in the successful manner in which they were carried out had it not been for Arthur Fergusson's wonderful ability as an interpreter.

The organ of the Spaniards in the Philippines who were hostile to us, *El Progreso*, wrote of Mr. Fergusson in 1902:

More than an interpreter, Mr. Fergusson is an orator; for in the campaign of propaganda of the civil commission, so tirelessly carried out, not only in the regular sessions in Manila, but also in the most distant provinces of the archipelago, he did not limit his efforts to the simple phonographic (we find no more appropriate word to express our idea) reproduction of the convincing arguments of Mr. Taft; but, identified with his policy of forgetfulness and confidence, he gave to those memorable speeches that brought about such marvelous results in the pacification of the country the picturesque color of the Latin oratory, poetizing with the rhythm of our tongue the dry Saxon laconism.

For us here Mr. Fergusson has been the valued and never to be forgotten assistant of the civil commission.

I hope that the gentleman will not press his point, because this would not establish a precedent for anything of the kind—

Mr. EDWARDS of Georgia. I object, Mr. Chairman.

The CHAIRMAN. Objection is made, and the bill will be passed without prejudice.

J. N. NEWKIRK.

The next business on the Private Calendar was the bill (H. R. 21167) to reimburse J. N. Newkirk, postmaster of San Diego, Cal., for moneys lost by burglary.

The Clerk read as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to repay to J. N. Newkirk, postmaster at San Diego, Cal., the sum of \$234.17, to reimburse him for key-deposit funds lost by burglary on February 26, 1906.

Mr. MILLER. Mr. Chairman, I ask that this bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none and it is so ordered.

Mr. GRONNA. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman from North Dakota rise?

Mr. MILLER. I yield to the gentleman from North Dakota—

The CHAIRMAN. But for what purpose does the gentleman rise?

Mr. MANN. I think we had better get through the calendar first.

The CHAIRMAN. For what purpose does the gentleman from Kansas yield to the gentleman from North Dakota?

Mr. GRONNA. To refer back to bill 1091, which is identically the same—

The CHAIRMAN. The gentleman from North Dakota asks unanimous consent that the committee recur to Calendar No. 1091, and the Chair understands that the gentleman from Illinois [Mr. MANN] objects.

Mr. MANN. Until we get through with the Calendar.

EARL E. WHITE.

The next business on the Private Calendar was the bill (H. R. 14345) for the relief of Earl E. White.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Earl E. White the sum of \$64.65, out of any money in the Treasury not otherwise appropriated, to reimburse him for money stolen from the post-office at West Brooklyn, Ill., on the night of June 2, 1907, by burglars, the said White being at that time the postmaster at West Brooklyn, Ill., and having refunded to the Post-Office Department (upon demand) the amount of money so stolen.

The CHAIRMAN. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

The bill was ordered to be laid aside with a favorable recommendation.

DAVID BRINTON.

The next business on the Private Calendar was the bill (H. R. 10697) for the relief of David Brinton.

The bill was read, as follows:

*Be it enacted, etc.*, That the Postmaster-General be, and he is hereby, authorized and directed to pay and reimburse David Brinton, postmaster at Timicula, Chester County, Pa., in the sum of \$12.73 for postage-due stamps, etc., stolen from said post-office on the 7th day of April, 1907.

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

E. L. SIMPSON.

The next business on the Private Calendar was the bill (H. R. 3844) for the relief of E. L. Simpson.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to E. L. Simpson the sum of

\$88.90, out of any money in the Treasury not otherwise appropriated, to reimburse him for money stolen from the post-office at Carrollton, Ill., on the night of January 2, 1897, by burglars, the said Simpson being at that time the postmaster at Carrollton, Ill., and having refunded to the Post-Office Department (upon demand) the amount of money so stolen.

The CHAIRMAN. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection?

There was no objection.

#### POSTMASTER AT SANDBORN, IND.

The next business on the Private Calendar was the bill (H. R. 19762) to reimburse the postmaster at Sandborn, Ind.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, directed to pay John Anderson, postmaster at Sandborn, Ind., \$463.99, being the amount burglarized from the post-office safe at said place February 18, 1907, the circumstances of which burglary being beyond the postmaster's control.

Also the following amendment was read:

In lines 5 and 6, strike out the words "four hundred and sixty-three dollars and ninety-nine" and insert in lieu thereof the words "four hundred and fifty dollars and forty-three."

The CHAIRMAN. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

The question is on agreeing to the committee amendment.

The question was taken, and the amendment was agreed to.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation.

There was no objection.

#### E. J. REED.

The next business on the Private Calendar was the bill (H. R. 4307) for the relief of E. J. Reed.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to E. J. Reed, postmaster at Danby, Vt., the sum of \$301.20, the sum of money and stamps stolen from the post-office at Danby, Vt., on the 29th day of April, 1906, without any fault on his part.

The CHAIRMAN. Is there objection to the consideration of the bill? [After a pause.] The Chair hears none.

Mr. MILLER. Mr. Chairman, I ask that the bill be laid aside with a favorable recommendation.

The motion was agreed to.

#### CLARK COUNTY, KY.

The next business on the Private Calendar was the bill (H. R. 18417) for the relief of Clark County, Ky.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the county of Clark, State of Kentucky, the sum of \$2,727.05, to reimburse said county for the building of a bridge across Howards Creek in said county.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MURDOCK. Reserving the right to object, Mr. Chairman, I would like to hear an explanation.

Mr. MILLER. I yield to the gentleman from Kentucky [Mr. LANGLEY].

Mr. LANGLEY. Mr. Chairman, this bill involves the question of the obligation of the United States Government to make reimbursement of damages resulting from public improvements. It provides that Clark County, Ky., be reimbursed for the expenses incurred by it, amounting to \$2,720.05, in building a bridge across Howards Creek in that county, which was rendered necessary by the backwater from a government dam across the Kentucky River. Howards Creek is a small stream which was easily crossed on horseback and in vehicles before the dam was built. It being impossible to cross it in that manner after the dam was built, the county erected this bridge. The amount carried by the bill is the actual cost of the bridge, as certified by the county officials, who are corroborated by the report of Major Warren, in charge of the Corps of Engineers, Cincinnati, Ohio. This report was approved by the Chief of Engineers of the United States Army, who has recommended the passage of the bill. There are precedents for the proposed action, one of which can be found in the river and harbor act of March 3, 1905, on page 1134, volume 33, of the United States Statutes at Large, part 1.

Mr. MILLER. Mr. Chairman, with the permission of the gentleman from Kentucky [Mr. LANGLEY], I want to read what the Chief of Engineers says in reference to it:

Inasmuch as the building of this bridge was made practically a necessity by the construction of the government dam, I am of the opinion that the claim of the county is a just one, and that the bill should re-

ceive favorable consideration. It is understood that the sum named in the bill is the actual amount expended by the county in building the bridge and approaches.

I ask that it be laid aside with a favorable recommendation.

Mr. MURDOCK. Mr. Chairman, I withdraw my objection.

The bill was laid aside with a favorable recommendation.

#### FREDERIC WILLIAM SCOTT.

The next business on the Private Calendar was the bill (H. R. 19636) for the relief of Frederic William Scott.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury is hereby authorized and directed to pay to Frederic William Scott, out of any money in the Treasury not otherwise appropriated, the sum of \$54.05, the amount of excess tariff paid the collector of customs at Richmond, Va., upon the importation of one oil painting and frame during the month of October, 1905.

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

Mr. MILLER. Mr. Chairman, I ask unanimous consent that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Is there objection?

There was no objection.

#### ALBERT R. HELLIG.

The next business on the Private Calendar was the bill (H. R. 10701) for the relief of Albert R. Hellig.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Albert R. Hellig the sum of \$750.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MACON. Mr. Chairman, I want to ask for what purpose is this to be paid out? The bill does not say.

Mr. MANN. This is one of those cases—while the gentleman is looking for the facts—where a man was required to deposit money for a certificate, as is required by the department. He deposited an amount of money and received the certificate which, under the law, was supposed to be used in payment to the Government for the land. But it was discovered that he was not required to deposit the money in the first place, and hence the certificate was really not to be used in paying for the land.

Mr. MACON. This is paying back that which should not have been paid?

Mr. MANN. That is it, and this is paying it back.

The bill was ordered to be laid aside with a favorable recommendation.

#### GEORGE J. MILLER.

The next business on the Private Calendar was the bill (H. R. 9969) for the relief of George J. Miller, of Wenatchee, Wash.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to George J. Miller, of Wenatchee, Wash., out of any money in the Treasury not otherwise appropriated, the sum of \$400, that being the sum which the Acting Commissioner of the General Land Office, in a decision dated September 24, 1900, found to be due him, but which was not repaid to him because neither said commissioner nor the Secretary of the Interior had power to make such repayment, being money which said Miller, acting on the erroneous advice of the register of the United States Land Office, paid to the United States for government land which he was later held to be entitled to receive as a homestead without such payment.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MILLER. I ask unanimous consent to strike out lines 7, 8, 9, 10, and 11.

The CHAIRMAN. The gentleman from Kansas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out lines 7, 8, 9, 10, and 11.

The CHAIRMAN. Without objection, the amendment will be agreed to.

There was no objection.

Mr. MILLER. I ask that the bill be laid aside with a favorable recommendation.

The bill as amended was ordered to be laid aside with a favorable recommendation.

#### STANLEY E. BROWN.

The next business on the Private Calendar was the bill (H. R. 1007) for the relief of Stanley E. Brown.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized to pay to Stanley E. Brown the sum of \$141.98, out of any money in the Treasury not otherwise appropriated, for services rendered in the office of the collector of internal revenue for the fifth district of Kentucky in the year 1901.



The amendments recommended by the committee were read, as follows:

Line 5, strike out the word "forty-one" and insert in place thereof the word "thirty-nine."

Line 5, strike out the word "ninety-eight" and insert in place thereof the word "thirteen."

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MACON. I reserve the right to object in order to get an explanation from the chairman of the committee.

Mr. MILLER. Hon. George B. Cortelyou, Secretary of the Treasury, states that in equity Mr. Brown should be paid \$139.13, compensation at the rate of \$1,000 per annum, and your committee therefore favorably report the bill as amended, with the recommendation that it pass.

Mr. MANN. Mr. Brown performed service—

Mr. MILLER. Yes.

Mr. MANN (continuing). In the office which was not regularly authorized by the department. The services were necessary to be performed, and he supposed that authority had been granted.

Mr. MACON. But there was no law authorizing it at that time?

Mr. MANN. No; at that time the department had not authorized it, but they recommend the payment.

Mr. MACON. I have no objection.

The amendments recommended by the committee were agreed to.

The bill as amended was ordered to be laid aside with a favorable recommendation.

JAMES A. RUSSELL.

The next business on the Private Calendar was the bill (S. 3848) for the relief of James A. Russell.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to James A. Russell, for transporting the mail on route No. 6531, from New Smyrna to Indian River, Fla., from January 1 to March 31, 1861, the sum of \$100.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MACON. Reserving the right to object, I will ask the gentleman why this gentleman was not paid at the time he performed the service?

Mr. MILLER. This is one of the old claims for carrying the mails in the South. It was not paid for the reason that it was before the beginning of the war. There is no evidence to show that he ever received his pay from the Government of the United States or from the Confederate States.

Mr. MURDOCK. May I ask the gentleman if this is the first time this bill has been reported?

Mr. MILLER. I think it is the first time this bill has been reported, but there are a great many bills of like character which have been reported and passed.

Mr. MANN. We pass one every time we consider bills on this calendar.

Mr. MILLER. That is true; and I hope the last of them will soon be disposed of.

The bill was ordered to be laid aside with a favorable recommendation.

B. JACKMAN.

The next business on the Private Calendar was the bill (S. 2580) for the relief of B. Jackman.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to B. Jackman, agent of the Maine Central Railroad Company, Vanceboro, Me., the sum of \$1,678.88, for refund of duties paid on 1,499 cases of condensed milk erroneously entered for consumption and shipped in transit through the United States to Dawson, Yukon Territory.

SEC. 2. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, \$1,678.88 for the purposes specified in this act.

The CHAIRMAN. Is there objection to the consideration of the bill?

Mr. MACON. I reserve the right to object, in order to get an explanation.

Mr. MILLER. I will yield to the gentleman from Illinois.

Mr. MANN. This was a case where some goods were shipped from Maine, intended to go through Canadian territory to Dawson, Yukon Territory. The railroad had by mistake carried them through to San Francisco, in the United States, and paid the duties on them. They were taken at San Francisco and shipped to Dawson. There is no controversy about the goods being shipped from one part of Canada to another part. They could have been shipped through the United States in bond, but through an error the railroad company—not the

people who shipped the goods—the railroad company assumed that they were going to San Francisco, and they were sent to San Francisco and the duty paid. This is to refund the duty.

Mr. MACON. Did the railroad company misroute the goods?

Mr. MANN. Yes.

Mr. MACON. Brought them into the United States when they never should have come here?

Mr. MANN. Sent them to San Francisco when they should not have gone there. It was intended that they should go the other way.

The CHAIRMAN. The Chair understands that the objection is withdrawn.

Mr. MACON. Yes.

The bill was ordered to be laid aside, to be reported to the House with a favorable recommendation.

CHARLES H. DICKSON.

The next business was the bill (S. 6665) for the relief of Charles H. Dickson.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Charles H. Dickson, out of any money in the Treasury not otherwise appropriated, the sum of \$256.72 cents, to reimburse him for money taken by burglars from the safe in the office of the Fort Lapwai Indian school, in Idaho, on the night of October 11, 1906, said Charles H. Dickson having been on the date specified in charge of said school as Indian school supervisor and responsible for said money under his official bond, to be immediately available.

With the following committee amendment:

In line 6, strike out "fifty-six" and insert "forty-six."

The amendment was agreed to.

The bill as amended was ordered to be laid aside, to be reported to the House with a favorable recommendation.

D. J. HOLMES.

The next business was the bill (S. 437) for the relief of D. J. Holmes.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, directed, out of any money in the Treasury not otherwise appropriated, to pay to D. J. Holmes, of Portland, Oreg., the sum of \$500, in full satisfaction for moneys expended by said Holmes on pre-emption claim to the northwest quarter of section 10, in township 6 south of range 12 east of the Willamette meridian, in The Dalles land district, State of Oregon, on which he filed declaratory statement No. 4688, June 1, 1885, and on which he settled May 17, 1885, and from which he was ousted by the same being included by a certain survey in the Warm Springs Indian Reservation in said State.

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

The bill was ordered to be laid aside, to be reported to the House with a favorable recommendation.

M. H. PLUNKETT.

The next business was the bill (H. R. 8277) placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank.

Mr. BUTLER. Mr. Chairman, I ask unanimous consent to have that bill passed without prejudice.

The CHAIRMAN. The gentleman from Pennsylvania asks unanimous consent to have this bill passed without prejudice. Is there objection?

There was no objection.

CHARLES FITZGERALD.

The next business was the bill (H. R. 24303) for the relief of the estate of Charles Fitzgerald.

The bill was read, as follows:

*Be it enacted, etc.*, That the Secretary of the Treasury be, and he is hereby, authorized to pay, out of any money not otherwise appropriated, to the estate of Charles Fitzgerald, late an inspector of the Post-Office Department, who was murdered while in the discharge of his duties as an officer of the United States and because of the faithful discharge of those duties, the sum of \$1,600, being one year's salary.

The CHAIRMAN. Is there objection to the consideration of the bill?

There was no objection.

The bill was ordered to be laid aside to be reported to the House with a favorable recommendation.

J. DE L. LAFITTE.

The next business on the Private Calendar was the bill (S. 5268) for the relief of J. de Lafitte.

The Clerk read the bill, as follows:

*Be it enacted, etc.*, That the Secretary of War be, and he is hereby, authorized and directed to cause to be investigated and examined the circumstances of an embezzlement of quartermaster funds on board the United States Army transport Logan, discovered while Jacques de L. Lafitte, captain, quartermaster, U. S. Army, was serving as transport quartermaster, amounting to \$2,923.44 cents; and if upon such examination and investigation he shall be satisfied that said Lafitte exercised due diligence and care, under the circumstances existing there

at the time, in view of his physical disability, and had no personal knowledge that such embezzlement or embezzlements were occurring, and exercised due diligence in ferreting out and disclosing same, then he is hereby authorized and directed to release and discharge said Lafitte from any further liability for said sum of \$2,923.44, and to refund and pay back to said Lafitte whatever sums may have been withheld and deducted from his pay.

The bill was ordered to be laid aside with a favorable recommendation.

JOHN D. BALDWIN.

The next business on the Private Calendar was the bill (H. R. 21881) for the relief of John D. Baldwin.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the sum of \$80 be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to pay John D. Baldwin, of Junction City, Kans., for a horse killed by a fragment of a shell fired from a gun belonging to Siege Battery O, Seventh Artillery, while at target practice on the military reservation at Fort Riley, Kans., on December 6, 1900.

The bill was ordered to be laid aside with a favorable recommendation.

ROYAL L. SWEANY.

The next business on the Private Calendar was the bill (H. R. 24373) to reimburse Royal L. Sweany, late deputy collector of internal revenue at Tacoma, Wash.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Royal L. Sweany, late a deputy collector of internal revenue at Tacoma, State of Washington, the sum of \$107, as a reimbursement of the aforesaid Royal L. Sweany for that amount of money paid by him to the Government to cover the value of certain documentary revenue stamps forwarded in the mails by said Royal L. Sweany, as deputy collector, on or about June 30, 1902, from Tacoma, Wash., to the office of the collector for the district of Oregon, at Portland, Oreg., and lost in transit.

The bill was ordered to be laid aside with a favorable recommendation.

FRANCES F. CLEVELAND AND MARY LORD HARRISON.

The next business on the Private Calendar was the bill (H. R. 25019) granting the franking privilege to Frances F. Cleveland.

The Clerk read the bill, as follows:

*Be it enacted, etc.,* That all mail matter sent by the post by Frances F. Cleveland, widow of the late Grover Cleveland, under her written autograph signature, be conveyed free of postage during her natural life.

With the following committee amendments:

Amend the bill so as to read as follows:

"That all mail matter sent by the post by Frances F. Cleveland, widow of the late Grover Cleveland, under her written autograph signature, and by Mary Lord Harrison, widow of the late Benjamin Harrison, under her written autograph signature, be conveyed free of postage during the natural life of each, respectively.

Mr. STAFFORD. Mr. Chairman, I move that the bill be laid aside, to be reported to the House with a favorable recommendation.

The motion was agreed to.

The CHAIRMAN. The Chair will say that this completes the call of the calendar.

WILLIS A. JOY.

Mr. MILLER. Mr. Chairman, I ask unanimous consent to return to Calendar No. 1091 (H. R. 6903), for the relief of Willis A. Joy.

The CHAIRMAN. The gentleman from Kansas asks unanimous consent to recur to Calendar No. 1091. Is there objection? [After a pause.] The Chair hears none.

Mr. MANN. Reserving the right to object, Mr. Chairman—

The CHAIRMAN. The gentleman from Illinois reserves the right to object. The Clerk will read the bill.

The Clerk read the bill, as follows:

A bill (H. R. 6903) for the relief of Willis A. Joy.

*Be it enacted, etc.,* That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to Willis A. Joy \$108, to reimburse him for money paid by him at the direction of the Post-Office Department while postmaster at Grand Forks, N. Dak., for redemption of certain post-office keys, and for which redemption no funds were ever provided him nor reimbursement made, and said sum is hereby appropriated for this purpose out of any money in the Treasury not otherwise appropriated.

Mr. MANN. Mr. Chairman, I have read the report in this case carefully. It seems to me the statements are about as "fishy" as can be. The claim is ten years old and never was presented to the department, and the department says that it has no papers on file in regard to it. I wish the gentleman who introduced the bill would explain what the Post-Office Department knows about the bill, now ten years old.

Mr. GRONNA. Mr. Chairman, I am very glad to explain the bill. As a matter of fact, the claim was presented to the department six years ago, but a bill has not been introduced before this one. This is a bill for \$108 which was sent by Mr. Joy, then postmaster at Grand Forks, to the department at Chicago for the redemption of keys. It is money he paid out of his own

pocket. The department has never said that this was not a legitimate claim, but it has said to Mr. Spalding, then a Member of Congress, that they could not return this money without a special bill being introduced. This Mr. Spalding did not do. Four years ago when I was elected to Congress Mr. Joy asked me if anything could be done, and I introduced this bill. The department says that there is no objection to the payment of this amount. It was money actually paid to the Treasury of the United States by Mr. Joy, who was then the postmaster.

Mr. MANN. If the gentleman can find where the Post-Office Department has stated that there was no objection to the passage of this bill, or where the claim was ever presented to the department—

Mr. MILLER. There is no question about the claim being presented to the department.

Mr. MANN. Will the gentleman from Kansas point out anything in the report—

Mr. MILLER. When the bill was sent to the department the department reported that the papers originally filed in the case of Mr. Joy were not available, and they could not report. The gentleman will find, on page 3 of the report—

Mr. MANN. I have read the report.

Mr. MILLER. On page 3 it says:

OFFICE OF FIRST ASSISTANT POSTMASTER-GENERAL,  
Washington, D. C., February 12, 1908.

Hon. J. M. MILLER,

Chairman Committee on Claims, House of Representatives.

SIR: In reply to your communication of the 6th instant, which the Postmaster-General has referred to this office, in regard to the claim of Mr. Willis A. Joy, former postmaster of Grand Forks, N. Dak., for reimbursement for redemption funds sent in by him to the department, there are inclosed copies of the correspondence relating to the matter now on file in this office. The papers which would indicate the exact facts in regard to this matter are no longer available, and it is impracticable for the department to make a definite recommendation in regard to the claim submitted by Mr. Joy. It seems, however, from the correspondence submitted herewith that it is very probable that Mr. Joy, through his unfamiliarity with postal matters, transmitted to the Auditor for the Post-Office Department funds which in reality should have been retained by him for the redemption of post-office keys.

Respectfully,

F. H. HITCHCOCK,  
First Assistant Postmaster-General.

OFFICE OF THE POSTMASTER-GENERAL,  
Washington, D. C., May 2, 1906.

Hon. JAMES M. MILLER,

Chairman Committee on Claims,  
House of Representatives.

SIR: I beg to acknowledge the receipt of your letter of the 28th ultimo, inclosing a copy of a bill (H. R. 17311) for the relief of Willis A. Joy, formerly postmaster at Grand Forks, N. Dak., and to inform you that as the papers relating to the matter of the payment by Mr. Joy of the sum of \$108 from his private funds, in 1896, in the redemption of keys to the delivery boxes are not now available, I am unable to furnish your committee any information in reference to this claim.

If the facts are as stated in certain correspondence recently submitted to the department by Representative GRONNA, Mr. Joy's claim would seem to be a meritorious one.

Respectfully,

G. B. CORTELYOU,  
Postmaster-General.

They said that the papers were not now available, but they furnished us with information; so we did the next best thing—

Mr. MANN. They had no papers.

Mr. MILLER. They were not now available. They did not know where they were.

Mr. GRONNA. I will say they did have the papers, because I presented the papers to the department myself.

Mr. MANN. Here is a report from the Post-Office Department, two letters from the claimant, and in no case is there a pretense that this claim was ever presented to the Post-Office Department or that it has any papers on the subject.

Mr. MILLER. I will state to the gentleman that the claim was presented to the Post-Office Department.

Mr. MANN. By whom?

Mr. MILLER. But they had no funds out of which they could pay a claim of this kind.

Mr. MANN. It is very peculiar that neither the Postmaster-General in two reports, nor the claimant in two letters, makes the statement.

Mr. MILLER. They said to us they could not find the papers, in a verbal statement, and then in their written report that the papers were not available. There is no question about this man paying his money out of his own private funds, and there is no reason why he should not be reimbursed.

Mr. MANN. I have a great deal of question about it myself.

Mr. GRONNA. Here is the sworn affidavit in the report. The claimant is a man of very high standing and good character, and his statement must be accepted as the truth.

Mr. MILLER. Not only the sworn affidavit of the claimant himself, but the evidence discloses the fact that he was a man of high standing and good character and no question was ever raised about the veracity of his statements. We have passed



this afternoon the same kind of a bill, and for that reason I think this ought to be passed.

Mr. MANN. The case we passed this afternoon was where key-deposit money was stolen. The law returns postal money or money order stolen, and we only carried it to the extent of key-deposit money, but that is an entirely different case from this. Here is a man who waits ten years, so far as this record is concerned, and then does not make any claim to the Post-Office Department, and there are no facts stated from the Post-Office Department. It seems to me that we have a right to have these cases examined by the Post-Office Department.

Mr. MILLER. I will say to the gentleman from Illinois that the claim was presented by Mr. Joy to the Post-Office Department immediately afterwards and ever since that time.

Mr. MANN. He does not say so.

Mr. MILLER. Ever since that time he has been pressing his claim, not only through the present Member of Congress from that district, but the former Member of Congress from the same district. This man has done everything in his power that he can do. He lost his money.

Mr. MANN. We do not know whether he did or not.

Mr. MILLER. He swears he did.

Mr. MANN. He waits ten years, and a man's recollection ten years afterwards about how he complicates accounts is not worth much anywhere.

Mr. GRONNA. He made a claim for this money immediately upon his retirement as postmaster. There is no question about that.

Mr. MANN. There is a question about it. I question it. Here is a man who writes two letters on the subject, setting out his claim fully, and makes no reference to such a thing. Unless the gentleman states it upon his own information, then I question it very much.

Mr. GRONNA. I do state it on my own information that he presented the claim immediately.

Mr. MANN. If the gentleman says to me or to the House that he knows what was done in 1894, 1895, or 1896, personally, by this man, and that he presented the claim, I shall make no objection.

Mr. GRONNA. I will say this, in answer to the gentleman from Illinois, that I had no knowledge of the case at that particular time, because my predecessor was then in office, but there were some things connected with this which I do not care to state on this floor.

Mr. MANN. The gentleman to whom the gentleman refers, Mr. Spalding, was not a Member of the House at that time.

Mr. GRONNA. Not in 1894?

Mr. MANN. Not when this claim accrued, according to the statement—not until long after.

Mr. GRONNA. I will state to the gentleman that I know of my own knowledge that this claim has been presented to the Post-Office Department by Mr. Joy himself, and that I have presented it to the Post-Office Department, and that of course the department can not pay it. There is no provision of law under which the department can pay it.

Mr. MANN. The department could pay it easy enough if the thing happened the way it is stated to have happened. The department has a law to cover such cases exactly. Now, if the gentleman presented his claim, if that is the way it was presented, those papers, I presume, are still on file. I do not imagine they have destroyed papers in the Post-Office Department since the gentleman has come here as a distinguished Member of the House.

Mr. GRONNA. I will say that I have taken the case up with the department personally and asked them if this money could be refunded, and I was given to understand the only way it could be done was by a special act of Congress.

Mr. MANN. Why, certainly, because there was no claim, and under the law he could not be paid without making a claim before this time.

Mr. MILLER. Mr. Chairman, I move that the bill be laid aside with a favorable recommendation.

The CHAIRMAN. Without objection, the bill will be laid aside with a favorable recommendation. [After a pause.] The Chair hears none.

Mr. BEDE. Mr. Chairman, I ask that the committee recur to Calendar No. 992 (S. 5330) for the relief of the Mille Lac band of Chippewa Indians in the State of Minnesota, and for other purposes.

The CHAIRMAN. The gentleman from Minnesota moves that the committee recur to the bill, Calendar No. 992. Is there objection?

Mr. MANN. Mr. Chairman, reserving the right to object—

Mr. MACON. Mr. Chairman—

The CHAIRMAN. For what purpose does the gentleman rise?

Mr. MACON. I was going to ask for the regular order, Mr. Chairman.

The CHAIRMAN. Objection is made.

Mr. BEDE. Mr. Chairman, I can explain any objection that may be made to the bill—

Mr. MACON. I think, with justice to other Members who have private bills upon this calendar, I am not objecting to the gentleman's bill—

Mr. BEDE. The calendar has been read over.

Mr. MACON. There was an understanding we were to go back after going through the calendar and take up the bills in their regular order just as if they had not been over.

The CHAIRMAN. As the Chair understands the order, the question now, as far as the calendar is concerned, is exactly the same as if no special order was made; and it would be to take up matters in order, unless the House voted otherwise.

Mr. LANGLEY. Mr. Chairman, my recollection is that I asked the gentleman from Kansas whether the regular order would be after passing all bills to which there was no objection, that then the bills objected to would be called in their regular order, and he replied in the affirmative, and his request for unanimous consent was granted with that understanding.

The CHAIRMAN. The Chair understands the situation to be exactly as the Chair stated it.

Mr. MILLER. Mr. Chairman, while I regret exceedingly to do it, I am compelled, in order that we may be able to get the bills through the House that have been reported favorably on this afternoon, to move to rise. I therefore move that the committee do now rise and report the bills and amendments back to the House with the recommendation that the same do pass.

Mr. MACON. Mr. Chairman, I withdraw—

The CHAIRMAN. It matters not whether the gentleman withdraws his point or not, the question before the House is on the motion of the gentleman from Kansas that the committee do rise.

Mr. MACON. I was going to ask the gentleman—

The CHAIRMAN. The question is on the motion of the gentleman from Kansas that the committee do now rise.

The question was taken, and the committee rose; and the Speaker having resumed the chair, Mr. CURRIER, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration sundry bills and resolutions and had instructed him to report the same, some with amendments and some without amendments, with the recommendation that the amendments be agreed to and that the bills do pass, and that the resolutions be agreed to, and that he was also directed to report that the bill H. R. 16048 be reported with the recommendation that it do lie on the table.

Mr. MILLER. Mr. Speaker, I ask the previous question be ordered upon all bills and amendments to their final passage.

The SPEAKER. The gentleman from Kansas asks unanimous consent that the previous question be considered as ordered upon all bills and resolutions reported to their final passage, except the bill which is to be laid on the table.

Mr. MANN. I object.

The SPEAKER. The Clerk will report the first bill.

#### BILL TABLED.

House bill of the following title, reported from the Committee of the Whole House on the state of the Union with the recommendation that it lie on the table, was laid on the table:

H. R. 16048. A bill for the relief of the heirs of Cornplanter, alias John O'Bial or Abeel, a Seneca Indian chief.

#### HOUSE RESOLUTION PASSED.

On House resolution of the following title, reported from the Committee of the Whole House on the state of the Union with amendments, the amendments were agreed to; and the resolution as amended was ordered to be engrossed for a third reading, was accordingly read the third time, and passed:

H. Res. 414. House resolution referring H. R. 11128, for the relief of Eli Pettijohn, to the Court of Claims.

#### HOUSE BILLS PASSED WITHOUT AMENDMENT.

House bills of the following titles, reported from the Committee of the Whole House on the state of the Union, were severally ordered to be engrossed for a third reading, were accordingly read the third time, and passed:

H. R. 12712. A bill for the relief of the estate of Samuel J. Rogers;

H. R. 18726. A bill for the relief of Wyatt O. Selkirk;

H. R. 15008. A bill to correct the military record of John H. Layne;

H. R. 17214. A bill for the relief of Harry Kimmell, a commander on the retired list of the United States Navy;

H. R. 19871. A bill for the relief of Sanford A. Pinyan;  
 H. R. 10187. A bill for the relief of R. A. Sisson;  
 H. R. 17960. A bill for the relief of Marcellus Butler;  
 H. R. 19653. A bill for the relief of T. C. Wakefield;  
 H. R. 19893. A bill for the relief of Thomas J. Shocker;  
 H. R. 18487. A bill for the relief of Charles H. Dunning;  
 H. R. 4562. A bill for the relief of C. W. Reid and Sam Daube;  
 H. R. 15218. A bill for the relief of the sureties on the official bond of the late Cornelius Van Cott;  
 H. R. 17572. A bill for the relief of George M. Voorhees;  
 H. R. 4166. A bill to relieve George W. Black and J. R. Wilson from a certain judgment in favor of the United States and to relieve George W. Black, J. R. Wilson, and W. M. Newell of a certain judgment in favor of the United States;  
 H. R. 2911. A bill for the relief of F. S. Jette & Son, of Savannah, Chatham County, Ga., for damages done to their wharf by U. S. dredge *Cumberland*;  
 H. R. 13644. A bill for the relief of the Bridgeport National Bank, Bridgeport, Ohio;  
 H. R. 9755. A bill for the relief of Charles Lennig & Co.;  
 H. R. 21019. A bill to reimburse Agnes M. Harrison, postmaster at Wheeler, Miss., for loss of money-order remittance;  
 H. R. 20204. A bill for the relief of Clara A. Carter, widow of Martin J. Carter, late consul of the United States to Yarmouth, Nova Scotia;  
 H. R. 2635. A bill for the relief of Herman Lehmann;  
 H. R. 10752. A bill to complete the military record of Adolphus Erwin Wells;  
 H. R. 18744. A bill for the relief of the estate of Mark S. Gorrell;  
 H. R. 21167. A bill to reimburse J. N. Newkirk, postmaster of San Diego, Cal., for moneys lost by burglary;  
 H. R. 14345. A bill for the relief of Earl E. White;  
 H. R. 10697. A bill for the relief of David Brinton;  
 H. R. 3844. A bill for the relief of E. L. Simpson;  
 H. R. 4307. A bill for the relief of E. J. Reed;  
 H. R. 18417. A bill for the relief of Clark County, Ky.;  
 H. R. 19636. A bill for the relief of Frederic William Scott;  
 H. R. 24303. A bill for the relief of the estate of Charles Fitzgerald;  
 H. R. 21881. A bill for the relief of John D. Baldwin;  
 H. R. 24373. A bill to reimburse Royal L. Sweany, late deputy collector of internal revenue at Tacoma, Wash.; and  
 H. R. 6903. A bill for the relief of Willis A. Joy.

## HOUSE BILLS WITH AMENDMENTS PASSED.

House bills of the following titles were reported from the Committee of the Whole House on the state of the Union, with amendments, and the amendments were severally agreed to. The bills as amended were ordered to be engrossed and read a third time; and being engrossed, they were accordingly read the third time and passed:

H. R. 19859. A bill to provide for the payment of certain volunteers who rendered service to the Territory of Oregon in the Cayuse Indian war of 1847 and 1848;  
 H. R. 19641. A bill for the relief of the Wilmerding-Loewe Company, of San Francisco, Cal.;  
 H. R. 15603. A bill for the relief of John W. Wood;  
 H. R. 11039. A bill for the relief of Willard W. Alt, of Hyannis, Nebr.;  
 H. R. 8558. A bill for the relief of R. J. B. Newcomb (the title was amended);  
 H. R. 20171. A bill to correct the military record of George H. Tracy;  
 H. R. 8734. A bill for the relief of Niels P. Larsen;  
 H. R. 4286. A bill for the relief of John Shull;  
 H. R. 12512. A bill for the relief of persons who sustained damage by explosion near Frankford Arsenal, Philadelphia;  
 H. R. 21058. A bill for the relief of R. J. Warren;  
 H. R. 870. A bill for the relief of the heirs of James H. Galbraith (the title was amended);  
 H. R. 16191. A bill to refund certain moneys paid into the Treasury of the United States through mistake by Augustus Bannigan;  
 H. R. 19839. A bill for the relief of W. H. Blurock;  
 H. R. 19762. A bill to reimburse the postmaster of Sandborn, Ind.;  
 H. R. 10701. A bill for the relief of Albert R. Hellig (the title was amended);  
 H. R. 9969. A bill for the relief of George J. Miller, of Wethersfield, Wash.;  
 H. R. 1097. A bill for the relief of Stanley B. Brown; and  
 H. R. 25019. A bill granting a franking privilege to Frances F. Cleveland (the title was amended).

## SENATE BILLS WITHOUT AMENDMENTS PASSED.

Bills of the Senate of the following titles were reported from the Committee of the Whole House on the state of the Union without amendment, were severally ordered to a third reading, were read the third time, and passed:

S. 604. An act to reimburse Ulysses G. Winn for money erroneously paid into the Treasury of the United States;  
 S. 6293. An act for the relief of Robert Davis;  
 S. 1751. An act to reimburse Anna B. Moore, late postmaster at Rhyolite, Nev., for money expended for clerical assistance;  
 S. 2873. An act for the relief of the owners of the steam lighter *Climax* and the cargo laden aboard thereof;  
 S. 5388. An act for the relief of Benjamin C. Welch;  
 S. 213. An act for the relief of S. R. Green;  
 S. 879. An act for the relief of John S. Higgins, paymaster United States Navy;  
 S. 2712. An act to authorize the Secretary of the Interior to investigate and cancel the allotment of William Jondron, Yankton Sioux allottee, should it prove to be fictitious;  
 S. 3848. An act for the relief of James H. Russell;  
 S. 2580. An act for the relief of B. Jackman;  
 S. 437. An act for the relief of D. J. Holmes; and  
 S. 5268. An act for the relief of J. de L. Lafitte.

## SENATE BILLS WITH AMENDMENTS.

On Senate bills of the following titles, reported from the Committee of the Whole House on the state of the Union with amendments, the amendments were severally agreed to and the bills as amended were ordered to a third reading, were read the third time, and passed.

S. 4632. An act for the relief of the Davidson Chemical Company, of Baltimore, Md.;  
 S. 2253. An act for the relief of Theodore F. Northrop;  
 S. 6136. An act authorizing the Secretary of War to issue patent to certain lands to Boise, Idaho (the title was amended); and  
 S. 6665. An act for the relief of Charles H. Dickson.

## MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House of Representatives by Mr. Latta, one of his secretaries, who also informed the House that the President had, on January 14, 1909, approved and signed bill of the following title:

H. R. 22306. An act to authorize the Delaware, Lackawanna and Western Railroad Company and the Lackawanna Railroad Company of New Jersey to construct and maintain a bridge across the Delaware River from a point near the village of Columbia, Knowlton Township, Warren County, N. J., to the village of Slateford, Northampton County, Pa.

## SENATE BILLS REFERRED.

Under clause 2 of Rule XXIV, Senate bills and joint resolutions of the following titles were taken from the Speaker's table and referred to their appropriate committees, as indicated below:

S. 8439. An act authorizing the Secretary of the Interior to appraise lands in the Fort Peck Indian Reservation, Mont., and grant the same to the Great Northern Railway—to the Committee on Indian Affairs.  
 S. 8357. An act to extend the time for disposing of lands on the Huntley project within the ceded Crow Indian Reservation, Mont.—to the Committee on the Public Lands.  
 S. 8005. An act authorizing the establishment of aids to navigation in Alaskan waters and making an appropriation therefor—to the Committee on Interstate and Foreign Commerce.  
 S. 7396. An act for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States—to the Committee on Military Affairs.  
 S. R. 114. Joint resolution authorizing the Secretary of War to dispose of certain bronze or brass cannon—to the Committee on Military Affairs.  
 S. R. 111. Joint resolution authorizing the rebuilding of the dormitory at Osage Boarding School, Oklahoma, recently destroyed by fire—to the Committee on Indian Affairs.

## ENROLLED BILLS SIGNED.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles:

H. R. 23351. An act for the relief of the owners of the Mexican steamship *Tabasqueno*;



H. R. 8615. An act to correct the naval record of Edward T. Lincoln; and

H. R. 14343. An act to correct the naval record of Randolph W. Campbell.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. WILSON of Illinois, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 23866. An act to amend an act entitled "An act to authorize the construction of a bridge between Fort Snelling Reservation and St. Paul, Minn.," approved March 17, 1906.

BENJAMIN BENNETT AND GEORGE BENNETT.

Mr. BENNET of New York. Mr. Speaker, I ask unanimous consent for the present consideration of the bill S. 388, which I send to the Clerk's desk, entitled "An act to confirm and legalize prior admissions to citizenship of the United States where the judge or clerk of the court administering the oath to the applicant or his witnesses has failed to sign or seal the record, oath, or the judgment of admission, and to establish a proper record of such citizenship."

And I also ask unanimous consent that the Clerk may report the amendment in the way of an entire substitute instead of the bill.

The SPEAKER. The gentleman from New York asks unanimous consent for the present consideration of a bill on the House Calendar, and asks that the amendment be read in lieu of the original bill.

The Clerk will report the amendment.

The Clerk read as follows:

Strike out all after the enacting clause, and insert the following: "Be it enacted, etc., That Benjamin Bennett and George Bennett, of West Branch, Ogemaw County, Mich., may be naturalized without making the declaration required by section 4 of the act entitled 'An act to establish a bureau of immigration and naturalization and to provide for a uniform rule for the naturalization of aliens throughout the United States,' approved June 29, 1906, and without waiting the two years required by that section."

Mr. CLARK of Missouri. Mr. Speaker, reserving the right to object, what is this bill? I could not understand from the reading of it, and neither could anybody else.

Mr. BENNET of New York. It was presented by the gentleman from Michigan [Mr. LOUP] originally, and covers the case of two gentlemen out in his district who have always thought they were citizens. One of them has been mayor of the city in which he lives, and another is an attorney and a county officer. The facts are that their father came here from England very many years ago when they were small children. He only filed a declaration of intention—what is commonly known as the "first papers." He voted all his lifetime, which he had a right to do in Michigan, and never went any further. And these gentlemen always thought they were citizens, and were voting and acting as citizens, until a question came up about some United States lands. Then it was found that their father had not taken out the second papers. This simply waives the two years that they otherwise would have to wait before they became citizens.

Mr. CLARK of Missouri. Does it name these two men specifically?

Mr. BENNET of New York. Yes, sir.

Mr. CLARK of Missouri. I got a letter from a man the other day who had voted for twenty years, and thought he had a perfect right to vote. But when he went to vote last fall somebody challenged his vote. It turned out that his father came over here when this boy was only 2 years old, and that his father never took out naturalization papers, although this man supposed that he had, and so he lost his vote. Now, I have not that man's letter. If I had, I would amend by putting his name in.

Mr. BENNET of New York. I will say privately, between ourselves, that if the gentleman will send that man's name to me, I will take steps to have it put in in the Senate.

Mr. CLARK of Missouri. Now, what is the provision of this bill?

Mr. BENNET of New York. Simply that it enables these men to be naturalized now instead of waiting the two years. They do not have to file a declaration or a petition. Otherwise they would have to file a declaration of intention and wait two years.

Mr. STAFFORD. Will the gentleman permit me? Are there not a number of instances of gentlemen similarly situated, and will not Congress be burdened by any number of like bills if this bill goes through?

Mr. BENNET of New York. I will say to the gentleman that the Committee on Immigration and Naturalization, which has a good many requests, never reported on another one where the facts are so strong as these. Such cases are extremely rare.

Mr. STAFFORD. There are many cases, I imagine, if the gentleman will permit my statement, of persons who have acted as citizens by voting, holding offices of trust and responsibility, and yet are not technically citizens, and who would be virtually in the same class as those designated in this bill.

Mr. BENNET of New York. Unquestionably there are men—

Mr. STAFFORD. If such is the fact, will not there be many bills presented asking for the same relief?

Mr. BENNET of New York. No; I do not think so.

Mr. MANN. I think I can give an explanation which will be explanatory. The first bill on this subject was the one I introduced—

Mr. BENNET of New York. Yes.

Mr. MANN (continuing). Covering the criminal court of Chicago, where naturalizations exceeding 15,000 or so had been issued for many years; and when that bill came up there was a difference of opinion between the House and the Senate as to whether there should be general legislation enacted. The bill finally went through in behalf of the people who had been naturalized illegally by the criminal court. Now, there is still some difference of opinion between the House and the Senate on the subject, and I apprehend before they get through discussing this measure between the two bodies that they will try to get something that will be satisfactory all around.

Mr. BENNET of New York. That is the intention.

Mr. EDWARDS of Georgia. Will the gentleman allow me to ask him a question?

Mr. BENNET of New York. Certainly.

Mr. EDWARDS of Georgia. What are the ages of these gentlemen?

Mr. BENNET of New York. Oh, they are certainly over 40 years.

Mr. EDWARDS of Georgia. One of them an attorney?

Mr. BENNET of New York. One of them an attorney, and another was the mayor of the city in which he lived.

Mr. EDWARDS of Georgia. Now, do I understand the gentleman to say that they have just recently discovered that they were not entitled to citizenship?

Mr. BENNET of New York. Within a year.

Mr. EDWARDS of Georgia. Thank you.

The SPEAKER. Is there objection?

Mr. CLARK of Missouri. I want to ask if this is a unanimous report from any committee or not?

Mr. BENNET of New York. It is.

Mr. CLARK of Missouri. When was the report made?

Mr. MANN. May 19; it is on the calendar.

The SPEAKER. May 12, 1908.

Mr. CLARK of Missouri. Now, you say you will help me to get my man in? [Laughter.]

Mr. BENNET of New York. Yes.

The SPEAKER. The Chair hears no objection. Without objection the amendment will be agreed to.

The amendment was agreed to.

The bill as amended was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

MOUNT OLIVET CEMETERY, SALT LAKE, UTAH.

Mr. HOWELL of Utah. Mr. Speaker, I ask unanimous consent for the present consideration of the bill H. R. 23863.

The SPEAKER. The gentleman from Utah asks unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the following bill.

The Clerk read as follows:

A bill (H. R. 23863) for the exchange of certain lands situated in the Fort Douglas Military Reservation, State of Utah, for lands adjacent thereto, between the Mount Olivet Cemetery Association, of Salt Lake City, Utah, and the Government of the United States.

Be it enacted, etc., That the Secretary of War, for and on behalf of the United States, is hereby authorized and directed to grant and convey by deed to the Mount Olivet Cemetery Association, of Salt Lake City, Utah, the following-described tract of land: Commencing at the southwest corner of the Fort Douglas Military Reservation and running thence east along and upon the south line of said Fort Douglas Military Reservation 80 rods; thence north parallel with the west boundary line of the said military reservation to the southeast corner of the Mount Olivet Cemetery grant; thence west along the south boundary line of the said Mount Olivet Cemetery grant 80 rods to the intersection of said line with the west line of said military reservation; thence south along

and upon said west line of said military reservation to the place of beginning, containing an area of 50 acres, more or less. Said land to be by the said Mount Olivet Cemetery Association permanently used as a cemetery for the burial of the dead: *Provided*, That when it shall cease to be used for such purpose it shall revert to the United States.

SEC. 2. That the deed provided for in the foregoing section of this act shall not be delivered to the said Mount Olivet Cemetery Association until said association shall have conveyed, or caused to be conveyed, to the United States in fee simple, free and clear of all incumbrances, subject to the approval of the Attorney-General of the United States, the following-described land, to-wit: The fractional southwest quarter of section 2, township 1 south, range 1 east, Salt Lake meridian, containing 150.92 acres, situate in Salt Lake County, State of Utah.

Mr. WILLIAMS. Mr. Speaker, reserving the right to object—if I understand this matter correctly, this bill is not recommended by any committee of the House.

Mr. HOWELL of Utah. It is recommended unanimously by the Committee on Military Affairs, and has the indorsement of the Secretary of War also.

Mr. WILLIAMS. I understood the gentleman to move to discharge the committee from its consideration.

Mr. MANN. The Committee of the Whole House on the state of the Union.

Mr. SLAYDEN. Is that the cemetery bill?

Mr. HOWELL of Utah. Yes, sir.

Mr. WILLIAMS. I understand you to move to discharge the Committee of the Whole House on the state of the Union?

Mr. HOWELL of Utah. Yes, sir.

Mr. WILLIAMS. I have no objection.

Mr. SLAYDEN. Mr. Speaker, while the bill probably was reported unanimously by the Committee on Military Affairs, I think, in justice to myself, as I had consideration of the bill delayed for a week, I ought to say that when the bill first came up I made inquiry whether or not the cemetery was a public cemetery or a private corporation, indicating that in the event it was a private corporation I should object. I then went away and was absent on public business, and while I was gone the bill was reported. I am told that the committee was satisfied, although the cemetery association was a private corporation, that it was a proper bill.

Mr. HOWELL of Utah. I will explain that Mount Olivet Cemetery Association is composed of the several churches in Salt Lake City, each having a representation in the association. It is purely a benevolent and charitable association. Some thirty-five years ago the Secretary of War was authorized to set apart 20 acres of this military reservation for a burial ground, which has been under the management and control of this association. Now, all the ground originally set apart has been fully occupied, and the association desires to acquire additional ground adjoining the present cemetery, and in exchange for this ground it is proposed to give to the military reservation 160 acres adjoining the reservation on the west, and which is much more useful to the Government for military purposes, for the land acquired from the Government in exchange, and which they bind themselves to use for no other purpose than cemetery purposes.

I will state further that there is no private gain connected with the management of this cemetery. The moneys arising from the sale of burial lots is devoted to the improvement and beautifying of the cemetery grounds. The bill is considered by the Secretary of War to be in the interest of the Government, and it has been unanimously reported favorably by the Committee on Military Affairs.

Mr. SLAYDEN. As before stated, I was absent when the bill was reported.

The SPEAKER. Is there objection?

There was no objection.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time and passed.

VETO MESSAGE—DAM ACROSS JAMES RIVER, STONE COUNTY, MO.

The SPEAKER laid before the House the following message from the President:

*To the House of Representatives:*

I return herewith without my approval House bill 17707 to authorize William H. Standish to construct a dam across James River, in Stone County, Mo., and divert a portion of its waters through a tunnel into the said river again to create electric power. My reasons for not signing the bill are:

The bill gives to the grantee a valuable privilege, which by its very nature is monopolistic, and does not contain the conditions essential to protect the public interest.

In pursuance of a policy declared in my message of February 26, 1908 (S. Doc. No. 325), transmitting the report of the Inland Waterways Commission to Congress, I wrote on March 13, 1908, the following letter to the Senate Committee on Commerce:

Numerous bills granting water rights in conformity with the general act of June 21, 1906, have been introduced during the present session of

Congress, and some of these have already passed. While the general act authorizes the limitation and restriction of water rights in the public interest and would seem to warrant making a reasonable charge for the benefits conferred, those bills which have come to my attention do not seem to guard the public interests adequately in these respects. The effect of granting privileges such as are conferred by these bills, as I said in a recent message, "taken together with rights already acquired under state laws, would be to give away properties of enormous value. Through lack of foresight we have formed the habit of granting without compensation extremely valuable rights, amounting to monopolies, on navigable streams and on the public domain. The repurchase at great expense of water rights thus carelessly given away without return has already begun in the East, and before long will be necessary in the West also. No rights involving water power should be granted to any corporation in perpetuity, but only for a length of time sufficient to allow them to conduct their business profitably. A reasonable charge should, of course, be made for valuable rights and privileges which they obtain from the National Government. The values for which this charge is made will ultimately, through the natural growth and orderly development of our population and industries, reach enormous amounts. A fair share of the increase should be safeguarded for the benefit of the people, from whose labor it springs. The proceeds thus secured, after the cost of administration and improvement has been met, should naturally be devoted to the development of our inland waterways." Accordingly I have decided to sign no bills hereafter which do not provide specifically for the right to fix and make a charge and for a definite limitation in time of the rights conferred.

In my veto message of April 13, 1908, returning House bill 15444, to extend the time for the construction of a dam across Rainy River, I said:

We are now at the beginning of great development in water power. Its use through electrical transmission is entering more and more largely into every element of the daily life of the people. Already the evils of monopoly are becoming manifest; already the experience of the past shows the necessity of caution in making unrestricted grants of this great power.

The present policy pursued in making these grants is unwise in giving away the property of the people in the flowing waters to individuals or organizations practically unknown, and granting in perpetuity these valuable privileges in advance of the formulation of definite plans as to their use. In some cases the grantees apparently have little or no financial or other ability to utilize the gift, and have sought it merely because it could be had for the asking.

The Rainy River Company, by an agreement in writing, approved by the War Department, subsequently promised to submit to and abide by such conditions as may be imposed by the Secretary of War, including a time limit and a reasonable charge. Only because of its compliance in this way with these conditions did the bill extending the time limit for that project finally become a law.

An amendment to the present bill expressly authorizing the Government to fix a limitation of time and impose a charge was proposed by the War Department. The letter, veto message, and amendment above referred to were considered by the Senate Committee on Commerce, as appears by the committee's report on the present bill, and the proposed amendment was characterized by the committee as a "new departure from the policy heretofore pursued in respect to legislation authorizing the construction of such dams." Their report set forth an elaborate legal argument intended to show that the Federal Government has no power to impose any charge whatever for such a privilege.

The fact that the proposed policy is new is in itself no sufficient argument against its adoption. As we are met with new conditions of industry seriously affecting the public welfare, we should not hesitate to adopt measures for the protection of the public merely because those measures are new. When the public welfare is involved, Congress should resolve any reasonable doubt as to its legislative power in favor of the people and against the seekers for a special privilege.

My reason for believing that the Federal Government, in granting a license to dam a navigable river, has the power to impose any condition it finds necessary to protect the public, including a charge and a limitation of the time, is that its consent is legally essential to an enterprise of this character. It follows that Congress can impose conditions upon its consent. This principle was clearly stated in the House of Representatives on March 28, 1908, by Mr. WILLIAMS, of Mississippi, when he said:

\* \* \* There can be no doubt in the mind of any man seeking merely the public good and public right, independently of any desire for local legislation, of this general proposition, that whenever any sovereignty, state or federal, is required to issue a charter or a license or a consent, in order to confer powers upon individuals or corporations, it is the duty of that sovereignty in the interests of the people so to condition the grant of that power as that it shall redound to the interest of all the people, and that utilities of vast value should not be gratuitously granted to individuals or corporations and perpetually alienated from the people or the state or the government.

\* \* \* It is admitted that this power to erect dams in navigable streams can not be exercised by anybody except by an act of Congress. Now, then, if it require an act of Congress to permit any man to put a dam in a navigable stream, then two things follow: Congress should so exercise the power in making that grant as, first, to prevent any harm to the navigability of the stream itself, and, secondly, so as to prevent any individual or any private corporation from securing through the act of Congress any uncompensated advantage of private profit.



The authority of Congress in this matter was asserted by Secretary Taft on April 17, 1908, in his report on Senator Newlands's Inland Waterways Commission bill (S. 500), where he said:

In the execution of any project and as incidental to and inseparably connected with the improvement of navigation, the power of Congress extends to the regulation of the use and development of the waters for purposes subsidiary to navigation.

And by the Solicitor-General in a memorandum prepared after a careful investigation of the subject.

Believing that the National Government has this power, I am convinced that its power ought to be exercised. The people of the country are threatened by a monopoly far more powerful, because in far closer touch with their domestic and industrial life, than anything known to our experience. A single generation will see the exhaustion of our natural resources of oil and gas and such a rise in the price of coal as will make the price of electrically transmitted water power a controlling factor in transportation, in manufacturing, and in household lighting and heating. Our water power alone, if fully developed and wisely used, is probably sufficient for our present transportation, industrial, municipal, and domestic needs. Most of it is undeveloped and is still in national or state control.

To give away, without conditions, this, one of the greatest of our resources, would be an act of folly. If we are guilty of it, our children will be forced to pay an annual return upon a capitalization based upon the highest prices which "the traffic will bear." They will find themselves face to face with powerful interests entrenched behind the doctrine of "vested rights" and strengthened by every defense which money can buy and the ingenuity of able corporation lawyers can devise. Long before that time they may and very probably will have become a consolidated interest, controlled from the great financial centers, dictating the terms upon which the citizen can conduct his business or earn his livelihood, and not amenable to the wholesome check of local opinion.

The total water power now in use by power plants in the United States is estimated by the Bureau of the Census and the Geological Survey as 5,300,000 horsepower. Information collected by the Bureau of Corporations shows that thirteen large concerns, of which the General Electric Company and the Westinghouse Electric and Manufacturing Company are most important, now hold water-power installations and advantageous power sites aggregating about 1,046,000 horsepower, where the control by these concerns is practically admitted. This is a quantity equal to over 19 per cent of the total now in use. Further evidence of a very strong nature as to additional intercorporate relations, furnished by the Bureau, leads me to the conclusion that this total should be increased to 24 per cent; and still other evidence, though less conclusive, nevertheless affords reasonable ground for enlarging this estimate by 9 per cent additional. In other words, it is probable that these thirteen concerns directly or indirectly control developed water power and advantageous power sites equal to more than 33 per cent of the total water power now in use. This astonishing consolidation has taken place practically within the last five years. The movement is still in its infancy, and unless it is controlled the history of the oil industry will be repeated in the hydro-electric power industry, with results far more oppressive and disastrous for the people. It is true that the great bulk of our potential water power is as yet undeveloped, but the sites which are now controlled by combinations are those which offer the greatest advantages and therefore hold a strategic position. This is certain to be strengthened by the increasing demand for power and the extension of long-distance electrical transmission.

It is, in my opinion, relatively unimportant for us to know whether or not the promoters of this particular project are affiliated with any of these great corporations. If we make an unconditional grant to this grantee, our control over it ceases. He, or any purchaser from him, will be free to sell his rights to any one of them at pleasure. The time to attach conditions and prevent monopoly is when a grant is made.

The great corporations are acting with foresight, singleness of purpose, and vigor to control the water powers of the country. They pay no attention to state boundaries and are not interested in the constitutional law affecting navigable streams except as it affords what has been aptly called a "twilight zone," where they may find a convenient refuge from any regulation whatever by the public, whether through the national or the state governments. It is significant that they are opposing the control of water power on the Desplaines River by the State of Illinois with equal vigor and with like arguments to those with which they oppose the National Government pursuing the policy I advocate. Their attitude is the same with

reference to their projects upon the mountain streams of the West, where the jurisdiction of the Federal Government as the owner of the public lands and national forests is not open to question. They are demanding legislation for unconditional grants in perpetuity of land for reservoirs, conduits, power houses, and transmission lines to replace the existing statute which authorizes the administrative officers of the Government to impose conditions to protect the public when any permit is issued. Several bills for that purpose are now pending in both Houses, among them the bill, S. 6626, to subject lands owned or held by the United States to condemnation in the state courts, and the bills, H. R. 11356 and S. 2661, respectively, to grant locations and rights of way for electric and other power purposes through the public lands and reservations of the United States. These bills were either drafted by representatives of the power companies, or are similar in effect to those thus drafted. On the other hand, the administration proposes that authority be given to issue power permits for a term not to exceed fifty years, irrevocable except for breach of condition. This provision to prevent revocation would remove the only valid ground of objection to the act of 1901, which expressly makes all permits revocable at discretion. The following amendment to authorize this in national forests was inserted in last year's agricultural appropriation bill:

And hereafter permits for power plants within national forests may be made irrevocable, except for breach of condition, for such term, not exceeding fifty years, as the Secretary of Agriculture may by regulation prescribe, and land covered by such permits issued in pursuance of an application filed before entry, location, or application, subsequently approved under the act of June 11, 1906, shall in perpetuity remain subject to such permit and renewals thereof.

The representatives of the power companies present in Washington during the last session agreed upon the bill above mentioned as the most favorable to their interests. At their request frequent conferences were held between them and the representatives of the administration for the purpose of reaching an agreement if possible. The companies refused to accept anything less than a grant in perpetuity and insisted that the slight charge now imposed by the Forest Service was oppressive. But they made no response to the specific proposal that the reasonableness of the charge be determined through an investigation of their business by the Bureau of Corporations.

The amendment of the agricultural bill providing for irrevocable permits being new legislation was stricken out under the House rules upon a point of order made by friends of the House bill—that is, by friends of the power companies. Yet, in the face of this record, the power companies complain that they are forced to accept revocable permits by the policy of the administration.

The new legislation sought in their own interest by some companies in the West, and the opposition of other companies in the East to proposed legislation in the public interest, have a common source and a common purpose. Their source is the rapidly growing water-power combination. Their purpose is a centralized monopoly of hydro-electric power development free of all public control. It is obvious that a monopoly of power in any community calls for strict public supervision and regulation.

The suggestion of the Senate Committee on Commerce in their report on the present bill that many of the streams for the damming of which a federal license is sought are, in fact, unnavigable is sufficiently answered in this case by the action of the House Committee on Interstate and Foreign Commerce upon this very measure. As stated in the House on March 18, 1908, by Mr. RUSSELL of Missouri, a bill to declare this river unnavigable was rejected by that committee.

I repeat the words with which I concluded my message vetoing the Rainy River bill:

In place of the present haphazard policy of permanently alienating valuable public property we should substitute a definite policy along the following lines:

First. There should be a limited or carefully guarded grant in the nature of an option or opportunity afforded within reasonable time for development of plans and for execution of the project.

Second. Such a grant or concession should be accompanied in the act making the grant by a provision expressly making it the duty of a designated official to annul the grant if the work is not begun or plans are not carried out in accordance with the authority granted.

Third. It should also be the duty of some designated official to see to it that in approving the plans the maximum development of the navigation and power is assured, or at least that in making the plans these may not be so developed as ultimately to interfere with the better utilization of the water or complete development of the power.

Fourth. There should be a license fee or charge which, though small or nominal at the outset, can in the future be adjusted so as to secure a control in the interest of the public.

Fifth. Provision should be made for the termination of the grant or privilege at a definite time, leaving to future generations the power or authority to renew or extend the concession in accordance with the conditions which may prevail at that time.

Further reflection suggests a sixth condition, viz:

The license should be forfeited upon proof that the licensee has joined in any conspiracy or unlawful combination in restraint of trade, as is provided for grants of coal lands in Alaska by the act of May 28, 1908.

I will sign no bill granting a privilege of this character which does not contain the substance of these conditions. I consider myself bound, as far as exercise of my executive power will allow, to do for the people, in prevention of monopoly of their resources, what I believe they would do for themselves if they were in a position to act. Accordingly I shall insist upon the conditions mentioned above not only in acts which I sign, but also in passing upon plans for use of water power presented to the executive departments for action. The imposition of conditions has received the sanction of Congress in the general act of 1906, regulating the construction of dams in navigable waters, which authorizes the imposing of "such conditions and stipulations as the Chief of Engineers and the Secretary of War may deem necessary to protect the present and future interests of the United States."

I inclose a letter from the Commissioner of Corporations, setting forth the results of his investigations and the evidence of the far-reaching plans and operations of the General Electric Company, the Westinghouse Electric and Manufacturing Company, and other large concerns, for consolidation of the water powers of the country under their control. I also inclose the memorandum of the Solicitor-General above referred to.

I esteem it my duty to use every endeavor to prevent this growing monopoly, the most threatening which has ever appeared, from being fastened upon the people of this nation.

THEODORE ROOSEVELT.

THE WHITE HOUSE, January 15, 1909.

Mr. MANN. Mr. Speaker, I move that the veto message and accompanying document be printed and referred to the Committee on Interstate and Foreign Commerce.

The motion was agreed to.

#### BRIDGE ACROSS CURRENT RIVER, MISSOURI.

The Speaker laid before the House the bill (H. R. 23713) authorizing the construction of a bridge across Current River, in Missouri, with a Senate amendment thereto.

Mr. SMITH of Missouri. I move to concur in the Senate amendment.

Mr. COOPER of Wisconsin. I understand that amendment strikes out the words "iron drawbridge" in the House bill, leaving it simply a bridge, with no restriction as to the kind.

Mr. MANN. I will say to the gentleman from Wisconsin that it is customary to leave the kind of bridge, under the general bridge law, in the control of the War Department. This leaves it to the War Department to determine the kind of bridge, without requiring what kind it shall be.

Mr. COOPER of Wisconsin. Does the gentleman think that is as wise a procedure as it would be for the bill itself to indicate the character of bridge? Is it not imposing a great burden upon a man in the War Department to tell what kind of a bridge shall be constructed over a stream about which he knows nothing except what is reported to him by parties largely interested always, 1,500 miles or more away from Washington?

Mr. MANN. The War Department knows far better the conditions and necessities as to a particular stream, after investigation through the Engineer Corps, than we can possibly know here. For that reason we leave it to the War Department, because otherwise we would constantly indicate a kind of bridge which would not be a sufficient protection to navigation, if we attempted to indicate it. The War Department, I think, guards those matters very carefully.

Mr. DAVENPORT. If anyone thinks otherwise, let him take a bridge bill down there providing for construction across a navigable stream.

The motion of Mr. SMITH of Missouri was agreed to.

Accordingly the House concurred in the Senate amendment.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted—

To Mr. CALDERHEAD, for twenty days, on account of important business.

To Mr. PATTERSON, for the remainder of this week, on account of sickness in his family.

#### POST-OFFICE APPROPRIATION BILL.

Mr. OVERSTREET, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. 26305) making appropriations for the service of the Post-Office Department for the

fiscal year ending June 30, 1910, and for other purposes, which was read the first and second times and, with the accompanying report (H. Rept. No. 1861), ordered to be printed and referred to the Committee of the Whole House on the state of the Union.

Mr. FINLEY. I desire to reserve all points of order.

The SPEAKER. The gentleman from South Carolina reserves all points of order.

#### ADJOURNMENT.

Mr. MILLER. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 7 minutes p. m.) the House adjourned.

#### EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

A letter from the Secretary of the Treasury, transmitting an estimate of appropriation for rent, etc., of buildings at Petersburg, Va. (H. Doc. No. 1323)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the secretary of the Interstate Commerce Commission submitting an estimate of appropriation for printing and binding for the commission (H. Doc. No. 1324)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting the annual report of the Director of the Census regarding the publication of the names of heads of families at the First Census (H. Doc. No. 1325)—to the Committee on the Census and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of War submitting an estimate of appropriation for defraying the expenses of the dedication of certain monuments and markers on the field of Gettysburg (H. Doc. No. 1326)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of Agriculture submitting a request that the apportionment of the appropriation for general expenses, Bureau of Animal Industry, for 1909 be waived (H. Doc. No. 1169, pt. 2)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, report of employment of civil engineers in river and harbor work (H. Doc. No. 1327)—to the Committee on Rivers and Harbors and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Acting Secretary of State submitting a recommendation for transfer and change of grade of the consulate at Messina, Italy (H. Doc. No. 1328)—to the Committee on Foreign Affairs and ordered to be printed.

A letter from the Secretary of the Treasury, transmitting a copy of a letter from the director of the mint at Carson, Nev., submitting an estimate of appropriation for wages and expenses at the mint (H. Doc. No. 1329)—to the Committee on Appropriations and ordered to be printed.

A letter from the Secretary of Commerce and Labor, transmitting report of Special Agent W. A. Graham Clark on manufacture of woolen, worsted, and shoddy in England and jute in Scotland (H. Doc. No. 1330)—to the Committee on Interstate and Foreign Commerce and ordered to be printed.

#### REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. RODENBERG, from the Committee on Industrial Arts and Expositions, to which was referred the concurrent resolution of the House (H. C. Res. 47) accepting the invitation extended to the Congress of the United States by the Alaska-Yukon-Pacific Exposition to attend the opening ceremony of said exposition at Seattle, Wash., June 1, 1909, reported the same without amendment, accompanied by a report (No. 1857), which said concurrent resolution and report were referred to the House Calendar.

Mr. HINSHAW, from the Committee on the Merchant Marine and Fisheries, to which was referred the bill of the House (H. R. 25678) to require life-preservers on motor vessels, reported the same with amendments, accompanied by a report (No. 1858), which said bill and report were referred to the House Calendar.



Mr. WEBB, from the Committee on the Judiciary, to which was referred House bill 12432, reported in lieu thereof a bill (H. R. 26299) authorizing certain proof in mitigation of damages in actions for libel, accompanied by a report (No. 1859), which said bill and report were referred to the House Calendar.

Mr. STERLING, from the Committee on the Judiciary, to which was referred the bill of the House (H. R. 25405) to change and fix the time for holding the circuit and district courts of the United States for the eastern and middle districts of Tennessee, reported the same without amendment, accompanied by a report (No. 1860), which said bill and report were referred to the House Calendar.

#### CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 25012) granting a pension to John Johnson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 25536) granting a pension to Charles Wilson—Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

#### PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials of the following titles were introduced and severally referred as follows:

By Mr. BEDE: A bill (H. R. 26280) relating to the construction and reconstruction of bridges across the St. Louis River between the States of Minnesota and Wisconsin—to the Committee on Interstate and Foreign Commerce.

By Mr. PORTER: A bill (H. R. 26281) to provide for the erection of a public building at Batavia, N. Y.—to the Committee on Public Buildings and Grounds.

By Mr. WASHBURN: A bill (H. R. 26282) to provide for the administration of the copyright office—to the Committee on Patents.

By Mr. BURGESS: A bill (H. R. 26283) to provide for the selection of a site in Texas for a dry dock and navy-yard—to the Committee on Naval Affairs.

By Mr. SULLOWAY: A bill (H. R. 26284) to provide for the extension of S street NW. from Second street to Third street, and for other purposes—to the Committee on the District of Columbia.

By Mr. SMITH of Michigan: A bill (H. R. 26285) requiring reports of the Hospital for Foundlings to be made to the Commissioners of the District of Columbia—to the Committee on the District of Columbia.

Also, a bill (H. R. 26286) to amend sections 4 and 16 of an act entitled "An act to incorporate the Columbia Railway Company of the District of Columbia," approved May 24, 1870—to the Committee on the District of Columbia.

Also, a bill (H. R. 26287) to transfer from the Secretary of the Interior to the Commissioners of the District of Columbia certain duties in respect to the Washington and Georgetown Railroad Company—to the Committee on the District of Columbia.

Also, a bill (H. R. 26288) empowering the juvenile court of the District of Columbia to issue execution on forfeited recognizances—to the Committee on the District of Columbia.

Also, a bill (H. R. 26289) to prevent prize fighting on vessels using the wharfage facilities of the District of Columbia—to the Committee on the District of Columbia.

Also, a bill (H. R. 26290) to amend an act entitled "An act regulating the sale of intoxicating liquors in the District of Columbia," approved March 3, 1893—to the Committee on the District of Columbia.

By Mr. FERRIS: A bill (H. R. 26291) to extend the time of payments on certain homestead entries in Oklahoma—to the Committee on the Public Lands.

By Mr. HAYES: A bill (H. R. 26292) to amend the act to regulate commerce—to the Committee on Interstate and Foreign Commerce.

By Mr. BANNON: A bill (H. R. 26293) for construction of an addition to the United States post-office and public building in the city of Portsmouth, State of Ohio, and for repairs and alterations to the present building—to the Committee on Public Buildings and Grounds.

By Mr. MCKINNEY: A bill (H. R. 26294) to amend an act en-

titled "An act permitting the building of dams across the north and south branches of Rock River, adjacent to Vandrufts Island and Carrs Island, and across the cut-off between said islands, in Rock Island County, Ill., in aid of navigation and for the development of water power"—to the Committee on Rivers and Harbors.

By Mr. POLLARD: A bill (H. R. 26295) to create forest reserves in the Southern Appalachian and the White Mountains in order to conserve the waters of navigable streams having their sources in these mountains, and for other purposes—to the Committee on Agriculture.

By Mr. MCGUIRE: A bill (H. R. 26296) authorizing the Secretary of the Interior to sell part or all of the surplus lands of members of the Kaw or Kansas tribe of Indians in Oklahoma—to the Committee on Indian Affairs.

By Mr. HIGGINS: A bill (H. R. 26297) fixing the return days in the circuit court of the United States for Connecticut—to the Committee on the Judiciary.

By Mr. BARTLETT of Nevada: A bill (H. R. 26298) to provide for relief of delinquent water-right applicants under the provisions of the reclamation act—to the Committee on Irrigation of Arid Lands.

By Mr. WEBB, from the Committee on the Judiciary: A bill (H. R. 26299) authorizing certain proof in mitigation of damages in actions for libel—to the House Calendar.

By Mr. MADISON: A bill (H. R. 26300) relating to injunctions and restraining orders—to the Committee on the Judiciary.

By Mr. HAMILTON of Michigan: A bill (H. R. 26301) to amend section 1 of an act approved January 30, 1897, entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes"—to the Committee on Indian Affairs.

By Mr. OLCOTT: A bill (H. R. 26302) to increase the efficiency of the Marine Band—to the Committee on Naval Affairs.

By Mr. GOULDEN: A bill (H. R. 26303) fixing the age of soldiers, sailors, and marines entitled to pensions under the provisions of the act approved February 6, 1907—to the Committee on Invalid Pensions.

By Mr. ALEXANDER of New York: A bill (H. R. 26304) to regulate the judicial procedure of the courts of the United States—to the Committee on the Judiciary.

By Mr. OVERSTREET, from the Committee on the Post-Office and Post-Roads: A bill (H. R. 26305) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1910, and for other purposes—to the Union Calendar.

By Mr. BURNETT: A bill (H. R. 26306) to pay rural mail carriers the sum of 10 cents per mile per day for each mile and fraction of a mile over 24 miles long—to the Committee on the Post-Office and Post-Roads.

By Mr. GAINES of Tennessee: Resolution (H. Res. 488) concerning Congressman LILLEY's right to membership in the House of Representatives—to the Committee on the Judiciary.

By Mr. MCGAVIN: Resolution (H. Res. 489) requesting information from the Commissioners of the District of Columbia relative to the enforcement of law requiring fire escapes on certain buildings—to the Committee on the District of Columbia.

#### PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred as follows:

By Mr. BANNON: A bill (H. R. 26307) granting an increase of pension to John C. Barber—to the Committee on Invalid Pensions.

By Mr. BARCLAY: A bill (H. R. 26308) granting an increase of pension to Annie E. McDonald—to the Committee on Invalid Pensions.

By Mr. BURLEIGH: A bill (H. R. 26309) granting a pension to Elizabeth Jane Merrill—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26310) for the relief of N. Parker Doe—to the Committee on Military Affairs.

By Mr. CALDWELL: A bill (H. R. 26311) granting an increase of pension to David F. Hodges—to the Committee on Invalid Pensions.

By Mr. CHANEY: A bill (H. R. 26312) for the relief of the legal representative of William and James Taylor, deceased—to the Committee on War Claims.

By Mr. COOPER of Pennsylvania: A bill (H. R. 26313) granting an increase of pension to Isaac F. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26314) granting an increase of pension to Henry Keys—to the Committee on Invalid Pensions.

By Mr. DRAPER: A bill (H. R. 26315) for the relief of William S. Lewis—to the Committee on Military Affairs.

Also, a bill (H. R. 26316) for the relief of A. S. Pease—to the Committee on Military Affairs.

Also, a bill (H. R. 26317) for the relief of William Stockwell—to the Committee on Military Affairs.

By Mr. EDWARDS of Georgia: A bill (H. R. 26318) for the relief of Elizabeth T. Belt—to the Committee on War Claims.

By Mr. ELLIS of Oregon: A bill (H. R. 26319) granting an increase of pension to Robert D. Rector—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26320) granting an increase of pension to Gerard Holcomb—to the Committee on Invalid Pensions.

By Mr. FLOOD: A bill (H. R. 26321) granting a pension to Louis H. Pennington—to the Committee on Invalid Pensions.

By Mr. FOSTER of Illinois: A bill (H. R. 26322) granting an increase of pension to John D. Collins—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26323) granting an increase of pension to Joseph Leonard—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26324) granting an increase of pension to Thomas K. Howe—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26325) granting an increase of pension to Stephen A. Johnson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26326) for the relief of Jasper C. Banks—to the Committee on War Claims.

Also, a bill (H. R. 26327) to remove the charge of desertion from the record of Henry Benjamin—to the Committee on War Claims.

By Mr. FOSTER of Indiana: A bill (H. R. 26328) granting an increase of pension to Nancy Ulen—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26329) granting an increase of pension to William H. Snider—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26330) granting an increase of pension to James F. Thurman—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26331) granting an increase of pension to Joel M. Morgan—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26332) granting an increase of pension to John G. Decker—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26333) granting an increase of pension to James Sumner—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26334) granting an increase of pension to Solomon Gundouin—to the Committee on Invalid Pensions.

By Mr. FULLER: A bill (H. R. 26335) granting an increase of pension to Daniel Miner—to the Committee on Invalid Pensions.

By Mr. GAINES of West Virginia: A bill (H. R. 26336) granting an increase of pension to John A. McDermott—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26337) granting an increase of pension to Elijah Hemmings—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26338) granting an increase of pension to William A. Cotrel—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26339) granting a pension to Thomas Gawthrop—to the Committee on Invalid Pensions.

By Mr. HOUSTON: A bill (H. R. 26340) granting an increase of pension to Benjamin F. Hall—to the Committee on Invalid Pensions.

By Mr. HUBBARD of West Virginia: A bill (H. R. 26341) granting an increase of pension to Josiah Monroe—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26342) granting an increase of pension to James A. Chambers—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26343) granting a pension to Margaret Miner—to the Committee on Invalid Pensions.

By Mr. ADDISON D. JAMES: A bill (H. R. 26344) granting an increase of pension to George M. Bobbitt—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26345) to correct the military record of Elijah Crabtree—to the Committee on Military Affairs.

By Mr. KENNEDY of Iowa: A bill (H. R. 26346) granting an increase of pension to Helen P. Smith—to the Committee on Pensions.

By Mr. KIPP: A bill (H. R. 26347) granting a pension to George H. Woodruff—to the Committee on Invalid Pensions.

By Mr. LASSITER: A bill (H. R. 26348) granting a pension to John Eubanks—to the Committee on Invalid Pensions.

By Mr. LAW: A bill (H. R. 26349) for the relief of the owners of the schooner *Fitz J. Babson*—to the Committee on Claims.

By Mr. LEVER: A bill (H. R. 26350) for the relief of Mary E. Stelling, sole heir at law of A. S. Frietas, deceased—to the Committee on War Claims.

By Mr. LOUD: A bill (H. R. 26351) granting an increase of pension to Henry M. Smith—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26352) granting an increase of pension to Albyn L. Bellinger—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26353) granting an increase of pension to Stewart Gorton—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26354) granting an increase of pension to John H. Robinson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26355) granting an increase of pension to Martin Lacy—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26356) to remove the charges of desertion from the record of John Winton—to the Committee on Military Affairs.

By Mr. NEEDHAM: A bill (H. R. 26357) granting an increase of pension to James N. Iliff—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26358) granting an increase of pension to R. A. Hamilton—to the Committee on Invalid Pensions.

By Mr. PORTER: A bill (H. R. 26359) granting an increase of pension to Charles Watson—to the Committee on Invalid Pensions.

By Mr. RANDELL of Louisiana: A bill (H. R. 26360) granting a pension to Ann E. Davis-Smith—to the Committee on Invalid Pensions.

By Mr. REYNOLDS: A bill (H. R. 26361) granting an increase of pension to Robert Dignan—to the Committee on Invalid Pensions.

By Mr. ROBINSON: A bill (H. R. 26362) granting a pension to G. A. Joyner—to the Committee on Pensions.

By Mr. SIMS: A bill (H. R. 26363) granting an increase of pension to Elijah J. Hodges—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26364) for the relief of Martha S. Atkins—to the Committee on War Claims.

By Mr. SLAYDEN: A bill (H. R. 26365) granting a pension to Sarah B. Hatch—to the Committee on Pensions.

By Mr. STEPHENS of Texas: A bill (H. R. 26366) granting an increase of pension to William L. Lanham—to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 26367) granting an increase of pension to George H. Franck—to the Committee on Invalid Pensions.

By Mr. SWASEY: A bill (H. R. 26368) granting an increase of pension to Truman H. Bucklin—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26369) granting an increase of pension to William T. Locke—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26370) granting an increase of pension to Joseph Lapham—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26371) granting an increase of pension to Charles W. Sanborn—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26372) granting an increase of pension to John W. Bigelow—to the Committee on Invalid Pensions.

By Mr. THOMAS of Ohio: A bill (H. R. 26373) granting an increase of pension to Edwin C. Thompson—to the Committee on Invalid Pensions.

By Mr. WALLACE: A bill (H. R. 26374) for the relief of the estate of John Gibson—to the Committee on War Claims.

By Mr. WASHBURN: A bill (H. R. 26375) to grant an honorable discharge to Theodore N. Gates—to the Committee on Military Affairs.

By Mr. WHEELER: A bill (H. R. 26376) granting a pension to Adaline Clark—to the Committee on Invalid Pensions.

By Mr. WILEY: A bill (H. R. 26377) granting a pension to George McClare—to the Committee on Invalid Pensions.

By Mr. DAVENPORT: A bill (H. R. 26378) granting an increase of pension to John Q. Barnum—to the Committee on Invalid Pensions.

By Mr. DWIGHT: A bill (H. R. 26379) granting an increase of pension to Seymour Eldredge—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26380) granting an increase of pension to Manley L. Cummings—to the Committee on Invalid Pensions.

By Mr. FOSTER of Vermont: A bill (H. R. 26381) granting an increase of pension to Joseph M. Moore—to the Committee on Invalid Pensions.

Also, a bill (H. R. 26382) granting an increase of pension to George H. Williams—to the Committee on Invalid Pensions.



By Mr. HEFLIN (by request): A bill (H. R. 26383) granting an increase of pension to Stephen P. Taylor—to the Committee on Invalid Pensions.

By Mr. HULL of Iowa: A bill (H. R. 26384) to correct the military record of John N. Gadd—to the Committee on Military Affairs.

By Mr. JONES of Virginia: A bill (H. R. 26385) to reimburse J. H. Whealton for moneys paid by him as surety for C. W. Fullerton, late postmaster of Whealton, Va.—to the Committee on Claims.

By Mr. LANGLEY: A bill (H. R. 26386) granting an increase of pension to Morrison T. McCormick—to the Committee on Invalid Pensions.

By Mr. SLEMP: A bill (H. R. 26387) granting an increase of pension to J. W. Hyatt—to the Committee on Pensions.

By Mr. SPARKMAN: A bill (H. R. 26388) granting an increase of pension to Phoebe E. Sparkman—to the Committee on Pensions.

Also, a bill (H. R. 26389) granting an increase of pension to Marvin Randall—to the Committee on Invalid Pensions.

By Mr. STERLING: A bill (H. R. 26390) granting a pension to Sarah M. Broughton—to the Committee on Invalid Pensions.

By Mr. STURGISS: A bill (H. R. 26391) granting an increase of pension to John A. Stuart, alias John Vanderpool—to the Committee on Pensions.

By Mr. WATKINS: A bill (H. R. 26392) granting an increase of pension to Gilbert B. Merrow—to the Committee on Invalid Pensions.

By Mr. WILLETT: A bill (H. R. 26393) granting an increase of pension to James W. Garrett—to the Committee on Invalid Pensions.

#### PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ACHESON: Petition of Chamber of Commerce of Pittsburg, Pa., favoring a river and harbor bill at this session of the Congress—to the Committee on Rivers and Harbors.

Also, petition of Pittsburg Chamber of Commerce, favoring a river and harbor bill carrying with it liberal appropriation for general waterways and particularly the improvement of the Ohio River—to the Committee on Rivers and Harbors.

By Mr. ALLEN: Petition of Harrog C. Huntress and 24 other citizens of Cornish, Me., against enactment of parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. ASHBROOK: Petition of Central Trades and Labor Council of Coshocton, Ohio, strenuously protesting against the sentence by Judge Wright of President Gompers, Mitchell, and Morrison—to the Committee on the Judiciary.

By Mr. BANNON: Paper to accompany bill for relief of David Holt (H. R. 25985)—to the Committee on Invalid Pensions.

By Mr. CARY: Petition of O. C. Hansen Manufacturing Company and shoe dealers of Milwaukee, favoring repeal of duty on hides—to the Committee on Ways and Means.

Also, petition of Milwaukee Bar Association, favoring increase of circuit and district court judges—to the Committee on the Judiciary.

Also, petitions of citizens of Milwaukee in mass meeting December 28, 1908, and the Poles of Milwaukee at Kosciuszko Hall Sunday, January 3, 1909, against the extradition by the Russian Government of Christian Rudowitz and Jan Pouren—to the Committee on Foreign Affairs.

Also, petition of American Prison Association, for appropriation to assist work of the International Prison Commission—to the Committee on the Judiciary.

Also, petition of Milwaukee Retail Grocers' Association, against parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. CHANEY: Petition of Riverside Post, Grand Army of the Republic, favoring amendment of the age-pension law—to the Committee on Invalid Pensions.

By Mr. DAWSON: Petition of Charles W. Law and 34 other citizens of Iowa, in favor of parcels post and postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. DUREY: Paper to accompany bill for relief of Jacob Brazie—to the Committee on Invalid Pensions.

By Mr. ELLIS of Oregon: Paper to accompany bill for relief of Martin L. Olmsted—to the Committee on Invalid Pensions.

Also, petition of John Medler and 49 others, of Sherman County, asking that grain bags and burlap cloth used in manu-

facture of same be admitted free of duty—to the Committee on Ways and Means.

By Mr. ENGLEBRIGHT: Petition of Merchants' Association of San Francisco, Cal., asking additional powers for Interstate Commerce Commission regarding freight rates—to the Committee on Interstate and Foreign Commerce.

Also, petition of Pajaro Board of Trade, favoring bond issue for improvement of rivers and harbors—to the Committee on Rivers and Harbors.

By Mr. FOCHT: Paper to accompany bill for relief of David G. Stahl—to the Committee on Invalid Pensions.

By Mr. FOSTER of Illinois: Paper to accompany bill for relief of Jasper C. Banks—to the Committee on War Claims.

Also, papers to accompany bills for relief of John D. Collins and Stephen A. Johnson—to the Committee on Invalid Pensions.

By Mr. FRENCH: Petition of Charles P. Hartley and others, of Idaho, favoring parcels-post and postal savings banks bills—to the Committee on the Post-Office and Post-Roads.

By Mr. FULLER: Paper to accompany bill for relief of Daniel Miner—to the Committee on Invalid Pensions.

Also, petition of Miss Olive Killefer, of Streator, Ill., for amendment of the Sherman antitrust law—to the Committee on the Judiciary.

Also, petition of Merchants and Manufacturers' Association of Westminster, Md., favoring the Lafean bill (H. R. 22339), for Lincoln memorial highway from Washington to Gettysburg—to the Committee on Appropriations.

By Mr. GARDNER of New Jersey: Petition of granges in Second Congressional District of New Jersey, favoring national highway commission—to the Committee on Agriculture.

Also, petition of citizens of Vineland, Newfield, and Bridgeton, N. J., against Johnston Sunday bill (S. 3940)—to the Committee on the District of Columbia.

Also, petitions of Morristown, Vineland, Medford, Cedarville, Ranecocas, Columbus, Princeton, and Union granges, Patrons of Husbandry, all of the State of New Jersey, favoring parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. HARDWICK: Petition of Chamber of Commerce of Augusta, Ga., favoring bond issue of \$500,000,000 for river and harbor improvement—to the Committee on Rivers and Harbors.

By Mr. HAYES: Petitions of Robert Stokes and 112 other citizens of San Jose, Cal., and vicinity; J. E. Way and 27 others, of Sandford, N. C.; J. H. Green and 47 others, of Saginaw, N. C.; J. W. Adams and 62 others, of Piedmont, W. Va.; Fred Wiedman and 69 others, of San Jose, Cal., and vicinity; and C. D. Cherry and 47 others, of Weldon, N. C., and vicinity, favoring an effective Asiatic-exclusion law against all Asiatics except merchants, students, and travelers—to the Committee on Foreign Affairs.

By Mr. HUBBARD of West Virginia: Papers to accompany bills for relief of Julia A. Smalley (H. R. 23594), John T. Whetzel (H. R. 24410), Elizabeth Barnhart (H. R. 23920), Mrs. Mahala C. Lydick (H. R. 23094), James H. Thomas (H. R. 18056), and Isaac H. Rice (H. R. 25393)—to the Committee on Invalid Pensions.

Also, petition of Huntington Chamber of Commerce, favoring S. 4825, for Appalachian and White Mountains forest reservation—to the Committee on Agriculture.

Also, paper to accompany bill for relief of Charles E. Strother (H. R. 12550)—to the Committee on Pensions.

By Mr. HUFF: Paper to accompany bill for relief of Carrier Thompson (previously referred to the Committee on Invalid Pensions)—to the Committee on Pensions.

Also, petition of Crain Pump and Lumber Company and J. Hawood Reber, asking for an increase of salaries of United States judges—to the Committee on the Judiciary.

Also, petition of National Guard Association of Pennsylvania, favoring passage of Senate bill 2671, authorizing extra officers for the army—to the Committee on Military Affairs.

By Mr. HUGHES of New Jersey: Petition of citizens of New Jersey, favoring parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. HULL of Iowa: Petition of citizens of Grimes and Perry, Iowa, for postal savings banks and parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. KAHN: Petitions of J. T. Cash and 30 other residents of North Carolina; J. S. Hager and 39 other residents of Gastonia, N. C.; F. I. Everett and 95 other residents of Humboldt County, Cal.; and Charles Armstrong and 143 other residents of Eureka, Cal., favoring a law excluding all Asiatics other than merchants, travelers, and students—to the Committee on Foreign Affairs.

By Mr. KNAPP: Petition of Leyden Grange, No. 562, of New York, favoring parcels-post and savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. LOUD: Papers to accompany bills for relief of John Winton, Martin Lacy, Stuart Gorton, John H. Robinson, Albyn L. Bellinger, and Henry M. Smith—to the Committee on Invalid Pensions.

By Mr. McKINNEY: Petition of Tri-City Labor Congress, of Rock Island and Moline, Ill., and Davenport, Iowa, in mass meeting, against sentence of Gompers, Mitchell, and Morrison by Judge Wright—to the Committee on the Judiciary.

By Mr. NEEDHAM: Petition favoring an exclusion law against all Asiatics save merchants, students, and travelers—to the Committee on Foreign Affairs.

Also, petition of the Central Labor Union, protesting against the sentence of Gompers, Mitchell, and Morrison by Judge Wright—to the Committee on the Judiciary.

Also, petition of Pajaro Valley Board of Trade, favoring appropriation of \$500,000,000 for improvement of rivers and harbors—to the Committee on Rivers and Harbors.

Also, petition of F. E. Taylor and others, favoring establishment of postal savings banks and a parcels post—to the Committee on the Post-Office and Post-Roads.

By Mr. NORRIS: Petition of Commercial Club of Norfolk, Nebr., for increased compensation for railway mail clerks—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Blue Hill and Cowles, Nebr., against a parcels-post system and postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of California and Nevada Grand Army of the Republic, favoring H. R. 13846, amending the age pension act—to the Committee on Invalid Pensions.

By Mr. OLMSTED: Petition of E. H. Molly, of Lebanon, Pa., urging appointment of a commission of army and navy men to investigate the claim of Theodore R. Timby to the invention of the revolving turret used on monitors and other turret ships—to the Committee on Naval Affairs.

By Mr. PRAY: Petition of Local Union No. 1070, United Mine Workers of America, of Gebo, Mont., for legislation to secure investigation of the Treadwell Mining Company in Alaska—to the Committee on Mines and Mining.

By Mr. RANSDELL of Louisiana: Paper to accompany bill for relief of Mrs. Annie Davis Smith—to the Committee on Invalid Pensions.

By Mr. REYNOLDS: Paper to accompany bill for relief of Robert Dignan—to the Committee on Invalid Pensions.

Also, petition of James L. Noble Post, American Veterans of Foreign Service, of Altoona, Pa., favoring the granting of a medal to each retired veteran of foreign service—to the Committee on Military Affairs.

By Mr. ROBINSON: Paper to accompany bill for relief of the heirs of R. A. Crutcher—to the Committee on War Claims.

By Mr. SLEMP: Papers to accompany bill granting an increase of pension to J. I. Cochran—to the Committee on Invalid Pensions.

Also, paper to accompany bill for relief of John I. Cockran—to the Committee on Invalid Pensions.

By Mr. SPERRY: Resolution of Higganum Grange, No. 129, of Higganum, Conn., favoring parcels post and postal savings banks—to the Committee on the Post-Office and Post-Roads.

By Mr. SWASEY: Petition of sundry citizens of Greene, Me., for passage of parcels-post and postal savings banks laws—to the Committee on the Post-Office and Post-Roads.

By Mr. THOMAS of Ohio: Petition of Ravenna Grange, No. 32, Patrons of Husbandry, for parcels post on rural free-delivery routes and for postal savings banks—to the Committee on the Post-Office and Post-Roads.

Also, petition of citizens of Ravenna, Ohio, against passage of Senate bill 3940 (Johnston Sunday law)—to the Committee on the District of Columbia.

By Mr. VREELAND: Petition of Sinclairville Grange, No. 401, Patrons of Husbandry, residents of Cattaraugus County, N. Y., for postal savings banks and parcels-post laws—to the Committee on the Post-Office and Post-Roads.

By Mr. WANGER: Petition of Stephen Betts and 17 other citizens of Newton, Bucks County, Pa., and vicinity, for a system of parcels post on rural free-delivery routes—to the Committee on the Post-Office and Post-Roads.

Also, petition of John Lucas & Co., of Philadelphia, Pa., asking increase in salary of United States judges—to the Committee on the Judiciary.

Also, petition of Stephen Betts and 17 other citizens of Newton, Bucks County, Pa., and vicinity, for a system of parcels-

post delivery on rural free-delivery routes and postal savings banks law—to the Committee on the Post-Office and Post-Roads.

Also, petition of John Lucas & Co., favoring H. R. 22279, increasing judges' salaries—to the Committee on the Judiciary.

By Mr. WATKINS: Paper to accompany bill for relief of Alexis F. Bareyve—to the Committee on War Claims.

Also, papers to accompany bill for the relief of Alexis Bareyve, of Natchitoches Parish, La., for reference of his claim to Court of Claims—to the Committee on War Claims.

By Mr. YOUNG: Petition of citizens of twelfth district of Michigan, favoring parcels-post system and postal savings banks—to the Committee on the Post-Office and Post-Roads.

## SENATE.

SATURDAY, January 16, 1909.

The Senate met at 1.30 o'clock p. m.

The Chaplain, Rev. Edward E. Hale, offered the following prayer:

*The everlasting God, the Lord, Creator of the ends of the earth, fainteth not neither is weary; there is no searching of His understanding. He giveth power to the faint, and to him that hath no might He giveth strength.*

*Even the youth shall faint and be weary, and the old men shall utterly fail. But they that wait upon the Lord shall renew their strength. They shall mount on wings as eagles; they shall run and not be weary; they shall walk and not faint.*

Let us pray.

Father of life, we thank Thee that in the memories of death and of sickness we learn the lesson of life; that we live and move and have our being in our God. And here to-day, as we meet to go back upon the history of the past and to know how Thy children have served Thee in the days that have gone by, we ask Thee for this whole Nation to quicken the memory of the history of these centuries; how this Nation has relied upon her children and found them in their places; how men, and women, and boys, and girls have served their country, have lived to Thy glory, and have died without fear. Not in vain for us that Thou art renewing the knowledge of Thy Gospel every day and every year of our lives.

Show us, Father, how we can live in the Spirit, how we can walk in the Spirit, if we enter into the service of God, which is the service of mankind. We ask it in Christ Jesus.

Our Father Who art in Heaven, hallowed be Thy name. Thy kingdom come, Thy will be done on earth as it is in Heaven. Give us this day our daily bread, and forgive us our trespasses as we forgive those who trespass against us. And lead us not into temptation, but deliver us from evil, for Thine is the kingdom, and the power, and the glory, for ever and ever. Amen.

The Secretary proceeded to read the Journal of yesterday's proceedings, when, on request of Mr. SCOTT, and by unanimous consent, the further reading was dispensed with.

The VICE-PRESIDENT. The Journal stands approved.

### MEMORIAL ADDRESSES ON THE LATE SENATOR WHYTE.

Mr. RAYNER. Mr. President, I offer the resolutions which I send to the desk.

The VICE-PRESIDENT. The Senator from Maryland submits resolutions, which will be read by the Secretary.

The Secretary read the resolutions, as follows:

*Resolved*, That it is with deep regret and profound sorrow that the Senate has heard the announcement of the death of Hon. WILLIAM PINKNEY WHYTE, late a Senator from the State of Maryland.

*Resolved*, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay fitting tribute to his high character and distinguished services.

*Resolved*, That the Secretary transmit to the family of the deceased a copy of these resolutions, with the action of the Senate thereon.

*Resolved*, That the Secretary communicate these resolutions to the House of Representatives.

The resolutions were considered by unanimous consent and unanimously agreed to.

Mr. SMITH of Maryland. Mr. President, the stoutest courage and the most gifted tongue might well be overwhelmed on this occasion by the impossibility of doing justice to the character and memory of WILLIAM PINKNEY WHYTE, who was lately a member of this body, taking an active part in its deliberations, buoyantly supporting, as he did, the weight of great cares and many years, bearing the respect and veneration of all, the tender love of many friends, shortly before his death decorated by a grateful constituency with the badge of their confidence en-